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MONTANA TRANSPORTATION

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A REPORT OF THE GOVERNOR'S TRANSPORTATION ADVISORY COUNCIL

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MONTANA TRANSPORTATION

September 1982

The Governor's Transportation Advisory Council

Knud Grosen, Chairman

Staffed by the

Montana Department of Commerce

Transportation Division

photo courtesy of Travel Promotion Bureau , Dept. of Commerce

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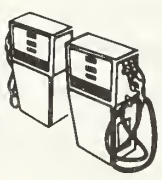
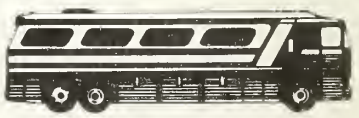

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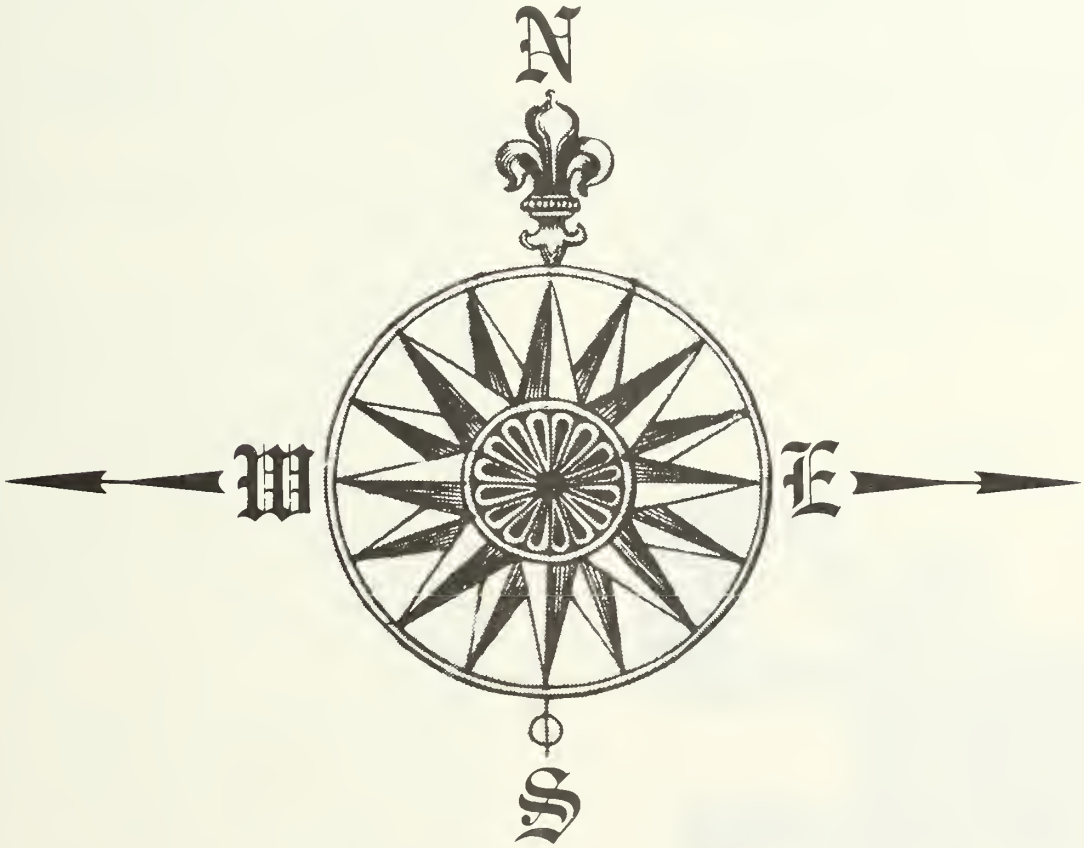

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A REPORT OF THE GOVERNOR'S TRANSPORTATION ADVISORY COUNCIL

PREFACE

The Honorable Ted Schwinden, Governor of Montana, formed the Transportation Advisory Council on October 30,1981, to evaluate Montana's major transportation problems and develop a comprehensive plan for dealing with the state's transportation needs. The Governor charged the Council with developing recommendations to be submitted to the 1983 Legislature. The Council received funds, staff support, and technical assistance from the Montana Department of Commerce, Transportation Division.

The Council's twenty members, consisting of businessmen and community leaders from throughout Montana, contributed a broad, professional and first-hand knowledge of the state's transportation systems. They represented such diverse groups as the Montana Motor Carriers Association, the Montana Grain Growers Association, the Burlington Northern Railroad, and the Inland Forest Resource Council.

Recognizing the breadth of the issues involved, the Transportation Council divided itself into six subcommittees according to the following topics: Railroads and Bulk Commodities (agricultural, mineral and energy commodities); Motor Carriers; Aviation; Passenger Transportation; Highways; and Intermodal/Executive. Beginning in November, 1981, the Council met monthly. The subcommittees often held additional meetings. In an effort to obtain all pertinent information on each issue, the Council listened to representatives of the transportation industry and transportation associations, both from within Montana and from surrounding states. It amassed data from the private sector, state government agencies, and the federal government. It worked closely with State Representatives John Harp and John Shontz, Chairman of the Legislative Joint Subcommittees on Highways and Transportation, respectively. Transportation Council members read and discussed technical data, debated various issues, identified possible solutions, and ultimately formulated recommendations. During May and June, 1982, the Council met as a whole to hear the subcommittee reports and reach a general consensus.

To encourage public comment, the Transportation Council published a newsletter reporting its activities since November, 1981.

Anyone seeking further information may contact the office of Governor Ted Schwinden; Bill Fogarty, Administrator of the Transportation Division, Montana Department of Commerce; or Knud Grosen, Chairman, Governor's Transportation Advisory Council.

The Council members, subcommittee chairmen, and those who have provided assistance are listed under "Acknowledgements" at the end of this report.

RECOMMENDATIONS OF THE GOVERNOR'S TRANSPORTATION ADVISORY COUNCIL

AVIATION

1. The Council recommends that the Montana Aeronautics Board should not be abolished under the sunset law. The Board should have authority to approve or disapprove all loans and grants made by the Aeronautics Division, Montana Department of Commerce; should be allowed to review the Division's budget before it is implemented; and should otherwise serve in an advisory capacity. *(Vote: 14 yes; 1-abstained).*

2. $2.5 million of oil severance tax revenues should be appropriated to the Aeronautics Division each year. The Division should distribute 100 percent of these funds to airports for maintenance, repair, and reconstruction projects only, at the ratio of 75 percent state funds to 25 percent airport funds. Half of these state funds should go to general aviation airports and half to air carrier airports. *(Vote: 12-yes; 3-abstained)*

3. The permissive mill levy for airports should be increased from two mills to four mills. *(Vote: 12-yes; 3-abstained).*

4. The Legislature should strengthen the statutory language regarding the permissive mill levy so that once a levy is certified by an airport governing body, it is mandatory—not discretionary—upon city and county governments. *(Vote: 11-yes; 4-no).*

5. The Legislature should examine taxation of aircraft and find a more equitable system similar to that used for automobiles. *(Vote: 11-yes; 3-no; 1-abstained).*

ENERGY TRANSPORTATION

1. Bulk liquid commodities pipelines, as common carriers, should be encouraged to develop in and through the State. A positive economic development environment should be created by State agencies and government in general. The Governor is encouraged to promote this concept through cabinet level discussion and legislative implementation. *(Vote: Unanimously passed).*

2. Montana water is growing in importance as a production resource for all Montana agriculture and industry. Decision on future water appropriation should be made only after thorough analysis and public review. The Committee recommends that commitment of water resources for slurry pipelines should be judiciously and cautiously undertaken. *(Vote: 9-yes; 6-no.)*

3. The Council recommends repeal of the prohibition of the use of State water for coal slurry pipelines and in place thereof to provide for prioritization of such use as subservient to domestic and agricultural consumption *(Vote: 9-yes; 6-no).*

The following recommendations were proposed but rejected by the Council by the vote recorded:

** Coal slurry pipelines may well be in Montana's future, but immediate and short term (10 year) coal transportation needs can be met by the railroad system. The Committee does not recommend any change in legislation or State policy position toward coal slurry pipelines. *(Vote: Motion to reject = 8-yes; 6-no; 1-abstained).*

**The methods of transportation of Montana's coal resources should be determined in the market place. Competing modes of transportation should be placed on equal footing under State law. The council recommends that coal slurry pipelines be permitted the right of eminent domain as a public use under the laws of the State. *(Vote: Motion in favor = 5-yes; 8-no; 1-abstained).*

HIGHWAYS

1. The current 1-cent fuel tax that ends July 1, 1983, should be made permanent. *(Vote: Unanimously passed).*

2. Both gasoline and diesel fuel taxes should be increased an additional 3.5 cents. *(Vote: 14-yes; 2-no; 1-abstained).*

3. The Council recommends the continuation of a study currently being done by the Department of Natural Resources and Conservation, Energy Division, and the Department of Revenue, Motor Fuel Tax Division, relating to taxation of alternate fuels used on highways. The Council further recommends that those vehicles should pay their fair share and that the appropriate agencies devise the appropriate taxing structure to achieve this. *(Vote: 15-yes; 2-no.)*

4. Gross vehicle weight (GVW) fees should be raised 35 percent across the board. Furthermore, the exemption for ready-mix concrete trucks and low-boy trailers hauling construction equipment should be eliminated: the exemption for logging vehicles should remain as is — 75 percent of the standard rate; and the exemption for farm vehicles should be raised from 16 percent to 37.5 percent of the standard rate. *(Vote: 16-yes; 1-no).*

5. The Highway Patrol should be completely supported by State general funds. *(Vote: 16-yes; 1-no).*

6. Of the total coal severance tax, 20 percent should be diverted from the coal trust to the Highway Reconstruction Trust Account. The Council also supports a constitutional amendment to that effect. *(Vote: 16-yes; 1-no).*

7. Since the Highway Financial Districts are an impediment to the prioritizing of highway projects and needs, and impede the best use of the funds on a statewide basis, a better method should be devised for the benefit of the State. *(Vote: 16 yes; 1-no).*

8. The Council further recommends that until a constitutional amendment for diversion of coal trust funds *(Recommendation No. 6)* has been adopted, that the Legislature dedicate 20 percent of the coal severance tax to the Highway Reconstruction Trust Account. *(Vote: Unanimously passed).*

9. The $5 million available through one-half of the scheduled one percent increase in oil severance tax, going into effect in 1983, should be made available for transportation uses in Montana other than for highway construction or reconstruction use. *(Vote: Unanimously passed).*

One proposed recommendation was rejected by the Council by the vote recorded:

** The interest on the funds in the highway earmarked revenue account should be retained in the account, which would add approximately $1.5 million per year. *(Vote: 7-yes; 10-no).*

** The Transportation Council also unanimously rejected the following sources of highway financing: the interest on the Highway Earmarked Revenue Account, Bonding, GVW fines, Traffic fines, and License fees.

INTERCITY BUS TRANSPORTATION

1. The Transportation Council recommends a study of intercity passenger service in Montana, to be conducted by the Transportation Division, Montana Department of Commerce, in conjunction with individual carriers; the Public Service Commission; and the Montana Travel Promotion Bureau, Department of Commerce. Subjects of the study shall include:

* the effects of proposed federal deregulation on the bus industry in Montana, and State regulatory reform;

* route, schedule, and other system improvements through coordination with airline, Amtrak and local transit services;

* system improvements through better communication networks, reservation systems, travel agency connections, and use of credit cards;

* cooperation among private carriers, terminal operators, and communities towards terminal improvements *(Vote: Unamiously passed).*

2. The Economic and Community Development Division, Department of Commerce, should work with local communities and organizations to improve community awareness of the benefits of intercity bus service. *(Vote: 9-yes; 4-no; 2-abstained).*

3. A revolving loan program to help fund vehicle purchases by means of industrial revenue bonds should be explored. *(Vote: 10-yes; 5-no).*

The following recommendation was proposed but rejected by the Council by the vote recorded:

** In order to bring about increased use of intercity passenger service, consider the utilization of funds from the U.S. Department of Transportation to develop marketing recommendations including a common system theme and logo along with generic advertising. *(Vote: 4-yes; 11-no).*

MOTOR CARRIERS

1. Remove the 105,500 pound gross combination weight maximum from the truck restricted route permits and allow the maximum to be determined by the existing axle limits and Formula B. *(Vote: 15-yes; 1-no; 1-abstained).*

2. Increase the vehicle length allowed under restrictive route permits from 85' to 95' in combination with Recommendation Number 1. *(Vote: 15-yes; 2-no).*

3. The Montana GVW table used for the restricted route load permit be altered to provide for:

A. extension of the six-axle column to be competitive with Washington and Idaho;

B. 95' overall vehicle length;

C. removal of the 105,500 pound limit.

(Vote: 16-yes; 1-no).

4. The State should be authorized to participate with other states in the operations, including sharing of personnel and facilities of joint scales and Ports of Entry. *(Vote: Unanimously passed.)*

5. The GVW Division should be allowed to contract with the owners of private scales for the long term or occasional use of those scales. *(Vote: Unanimously passed).*

6. The fine schedule for overweight vehicles should be increased by 300 percent. *(Vote: Unanimously passed).*

7. Allow the Gross Vehicle Weight Division to deny or withdraw the issuance of any gross vehicle weight authorization to any user determined to be in continuous and flagrant violation of the limits. *(Vote: Unanimously passed).*

8. The fine for overweight axles and gross weight violations should be without regard to the licensed capacity of the vehicle, and separate fees should be determined for failure to obtain the required gross vehicle weight. *(Vote: Unanimously passed).*

9. A private/government task force should be established to create a central system of collecting violations by motor carriers and drivers and so improve the quality and availability of driver-related information. *(Vote: 16-yes; 1-no).*

10. There should be a central source for all permitting and reporting for the motor carrier industry. *(Vote: 16-yes; 1-no).*

11. The Motor Fuel Tax Division of the Montana Department of Revenue requirement that each fuel purchase be reported by vendor on the fuel user tax return should be eliminated. Only miles traveled and fuel used should be recorded. *(Vote: 16-yes; 1-no).*

12. The State should be allowed to create a new road classification when such classification would preserve or increase the number of jobs in Montana or otherwise further its economic development. *(Vote: 16-yes; 1-no).*

The following recommendation was proposed but rejected by the Council by the vote recorded:

** The Gross Vehicle Weight Division of the Montana State Department of Highways should be given access to the loading records of any shipper loading vehicles for use on a public highway and that shippers be required to retain those records for 30 days and make them available during normal business hours. *(Vote: 7-yes; 9-no; 1-abstained).*

The Council concurred to table and delete the following recommendation:

** All trailers for use and combinations of GVW in excess of 24,000 pounds should be licensed only once for the time they are owned by a user. A fee in lieu of property taxes should be applied to the tractor. GVW fees should also be applied to the tractor.

RAILROADS

1. The Division of Transportation, under the Department of Commerce, should be adequately funded and encouraged to provide information to shippers for utilization in determining appropriate rate levels under the Staggers Act. The Division should continue dialogue with all bulk transporation companies to ensure that Montana shippers are provided the best and most efficient means of shipping their products. *(Vote: Unanimously passed).*

2. Branchline abandonments are of concern to the resulting isolated shippers and the state of Montana. The Council urges that the Division continue its rail planning functions in conjunction with line abandonments and rate determination. Communications and consultations among carriers, affected shippers, and the State should be encouraged prior to actual abandonment. *(Vote: Unanimously passed).*

URBAN PUBLIC TRANSPORTATION

1. The Transportation Advisory Council is recommending that one-half of one percent of oil severance tax revenues be made available for transporation uses in Montana for other than highway purposes. This additional tax is expected to generate approximately $5 million dollars. The Council further recommends that 40 percent of the funds generated from this tax be provided to communities for transit purposes to partially offset losses in federal revenues, after the community has expended the equivalent of 12 mills in support of the community system *(Vote: 13-yes; 1-no).*

2. Local public transit systems should not come under the regulatory authority of the Montana Public Service Commission. *(Vote: 13-yes; 1-abstained).*

INTERMODAL

1. The Council recommends that the State provide sufficient resources (economic and political) to protect Montana's transportation dependent industries. *(Vote: 13-yes; 3-no).*

2. The Council recommends the sale of State waters that are prioritized below domestic consumption and are available after requirements of down stream minimum flow are met. The Council recognizes that the State's water, like its timber and grains, is a valuable renewable resource for which markets should be developed. *(Vote: 13-yes; 3-no).*

3. The Council recommends that the State initiate and/or participate in the study of several transportation topics which are beyond the scope of this Council. The topics involve engineering studies and cost/benefit analysis of truck configurations; highway design; and the best ways to help the various transportation industries work together for the good of the State. *(Vote: Unanimously passed).*

4. Existing financial districts should be reduced to five that will coincide with boundaries of the Department of Highways administrative districts. The Highway Commissioners district will be made to coincide with the new financial district boundaries. *(Vote: Unanimously passed).*

5. Determining priorities for construction and reconstruction of secondary roads be changed from a single county to include all counties within a financial district. Each district will be responsible for developing a six-year plan, that will include a two-year firm plan. Upon adoption of the plan by the district, it shall be submitted to the State and become part of the State highway plan. *(Vote: Unanimously passed).*

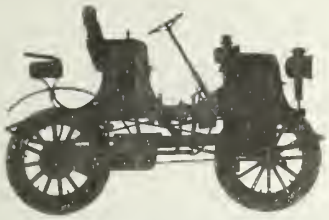
6. Secondary highway plans will be developed by a District Planning Council. The Highway Commissioner from each district will chair the District Planning Council which, in addition to the Highway Commissioner, will consist of a County Commissioner from each county from within the district. *(Vote: Unanimously passed).*

7. The financial district money allocation formula shall be re-examined and revised to insure that equity is maintained in allocating funds. *(Vote: Unanimously passed).*

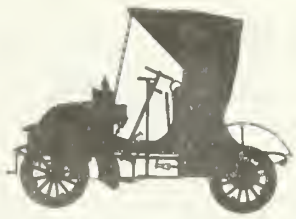
The following recommendations were proposed but rejected by the Council by the vote recorded:

** The Council recommends that the State insure that U.S. 200 and 93 be reconstructed to provide adequate corridors for transportation of the State's major renewable resources. The Council further advises that the alteration of the highway transportation districts law and utilization of the reconstruction trust are vital elements to accomplishing this goal. *(Vote: 5-yes; 11-no).*

** The Committee discussed the possibility of an on-going Council to address future transportation issues in Montana. The purpose of the Council would be to provide coordination and direction to all transportation efforts including Highways, Aeronautics, Departments of Revenue, Commerce and the Public Service Commission. The Council would consist of members of the private sector, academic community and state government. The Council would be strictly in an advisory capacity. With the exception of State government staff, its members would serve strictly on a volunteer basis, without State support. They might pay their expenses out of their own pockets, or be reimbursed by the organizations they represent. Under current law, the Governor must provide for the expenses of anyone he appoints to serve him; a change in that law would be required. The Council would always be chaired by one of its representatives from private industry, and membership would be changed every two years. No member, except government staff, would serve a second term. The Transportation Division, Department of Commerce, would provide staff for clerical records. *(Vote: 5-yes; 11-no).*



I. INTRODUCTION



Transportation is recognized as a national problem. In Montana, transportation problems are approaching crisis proportions. In the past few years, Montana has lost the Milwaukee Railroad, one of two AMTRAK routes, and several of Burlington Northern branchlines.

The shift to a grain subterminal system for the collection of grain may cause a decrease in the number of rail branchlines and grain elevators serving Montana producers. As a result, more emphasis will be placed on the trucking industry, and greater demand will be made on Montana's deteriorating highway system. Simultaneously, the federal funds to help maintain that system are being drastically reduced. These problems are compounded when one considers the vast rural geography with which Montana is blessed. Most Montana-produced goods must be transported to market outside the state, which means Montana must have efficient, economical, and safe transportation.

Montana has a commitment to its citizens to provide and maintain an adequate transportation system for movement of persons and goods within the state. Montana must have a sound, multi-modal transportation system to promote the health and welfare of its people. Governor Schwinden thus asked the Transportation Advisory Council for a comprehensive, coordinated plan for all modes of transportation in Montana. Such a plan must incorporate definite goals. The Council sought to:

**encourage imaginative solutions to transportation problems;*

**define the state's role as regulator and supporter of private transportation industries, assess the effects of deregulation, streamline bureaucratic processes; and*

**encourage industry and employment in Montana.*

** inventory Montana's transportation services;*

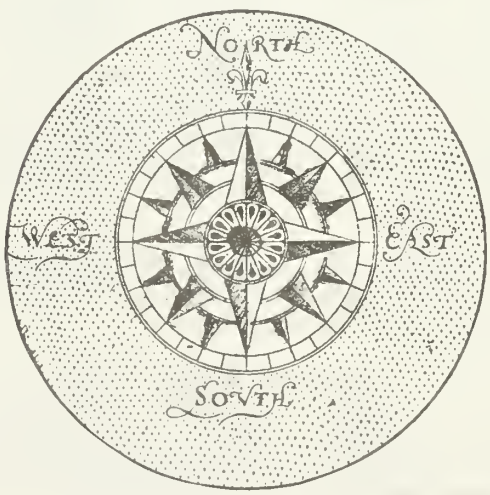
**encourage competitive and coordinated service;*

**respond effectively to the decrease in federal funds, use state assets more efficiently, and explore new funding sources;*

**coordinate Montana transportation with that of other states and Canada;*

More specifically, these goals promote: the efficient transport of Montana's most important export commodities, grain and coal; lower cost railroad service; improved efficiency in the motor carrier industry; improved air and passenger transportation; and an adequate highway system for Montana.

Of the many transportation issues which surfaced, the Council focused on those which are most important in priority to Montana and most likely to be resolved through Council efforts. When making its recommendations, again chosing from many alternatives, the Council preferred measures which are the most effective as well as feasible, given Montana's unique combination of problems. In this report, the Transportation Council summarizes its work and emphasizes its recommendations in a form readily useful to Governor Schwinden, the Legislature, and the general public. The Council urges the reader to consider these alternatives when seeking effective, concrete ways to help meet Montana's transportation needs.



II. AVIATION

Next to retaining air carrier service, adequate funding for airports and airport maintenance is the industry's greatest concern. Montana has 121 public airports: 8 serving major airlines, 6 serving commuter airlines, and the rest for general aviation. Many of these airports are in the same condition as our highways, and the larger airports especially need maintenance funds. Airports have traditionally increased their revenues by increasing user fees—fuel taxes and landing fees for example—but these fees have reached their upper limits.

RECOMMENDATIONS

After having consulted the Montana Aeronautics Board and the Montana Aviation Advisory Committee, and having conducted a survey asking for information from people active in the State's aviation industry, the Transportation Council makes these recommendations regarding airport regulation and funding;

1. The Council recommends that the Montana Aeronautics Board not be abolished under the sunset law. The Board should have authority to approve or disapprove all loans and grants made by the Aeronautics Division, Montana Department of Commerce; should be allowed to review the Division's budget before it is implemented; and should otherwise serve in an advisory capacity. *(Vote: 14-yes; 1-abstained).*

2. A $2.5 million of oil severance tax revenues should be appropriated to the Aeronautics Division each year. The Division should distribute 100 percent of these funds to airports for maintenance, repair, and reconstruction projects only, at the ratio of 75 percent state funds to 25 percent airport funds. Half of these state funds should go to general aviation airports and half to air carrier airports. *(Vote: 12-yes; 3-abstained).*

3.The permissive mill levy for airports should be increased from 2 mills to 4 mills. *(Vote: 11-yes; 3-no; 1-abstained).*

4. The Legislature should strengthen the statutory language regarding the permissive mill levy so that once a levy is certified by an airport governing body, it is mandatory—not discretionary—upon city and county governments. *(Vote: 11-yes; 4-no).*

5. The Legislature should examine taxation of aircraft and find a more equitable system similar to that used for automobiles. *(Vote: 11-yes; 3-no; 1-abstained).*

THE MONTANA AERONAUTICS BOARD

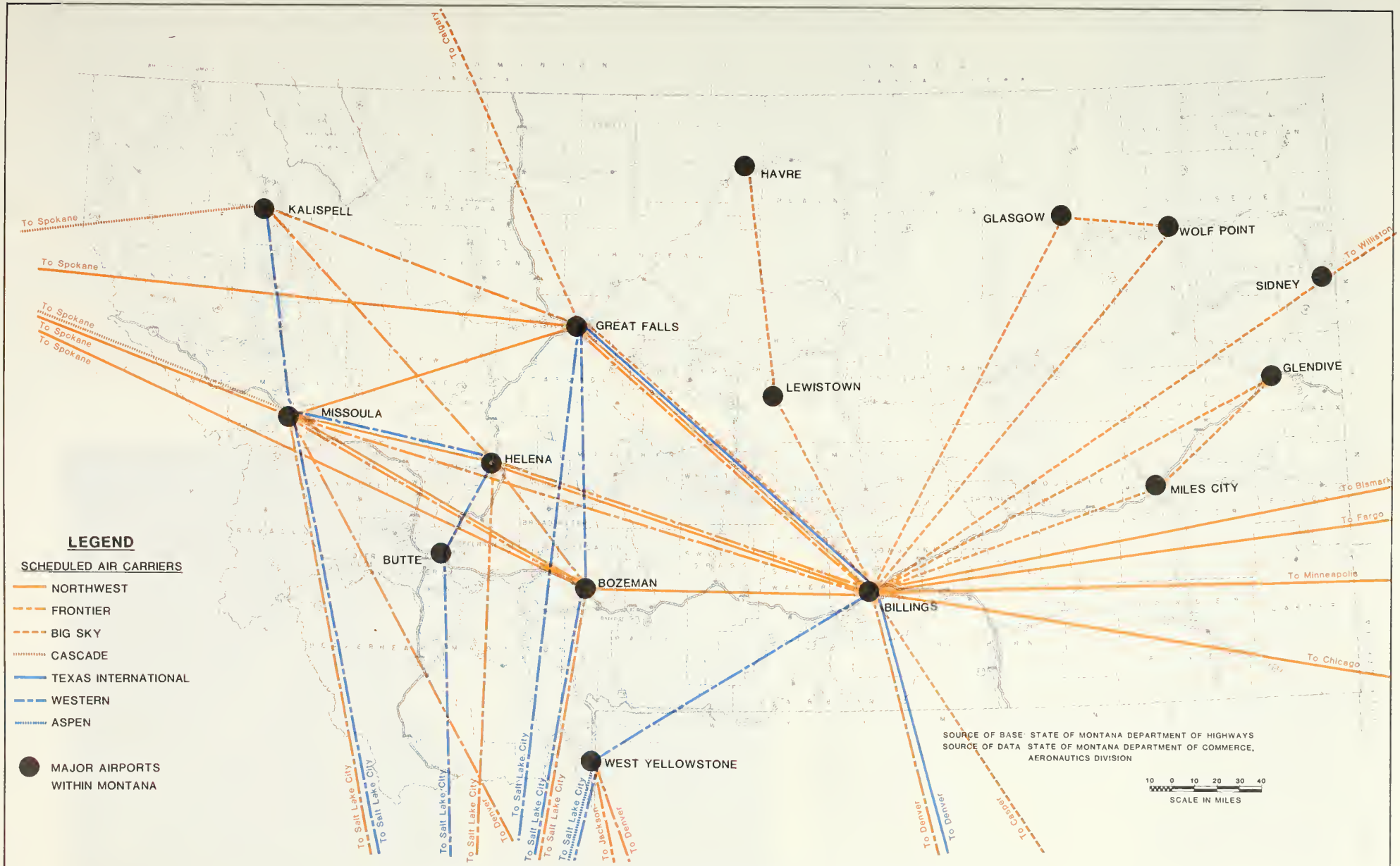
The Montana Aeronautics Board was initially designed to protect the public's interests regarding airline regulations and the activities of the Aeronautics Division. Without new legislation, the Board will terminate, or "sunset" in June of 1983. Through the Council's survey and the testimony of aviation representaties, overwhelming support was given by the aviation industry for the continuation of the Board.

AIRPORT FUNDING

Federal funds, in the form of Airport Development and Aid Programs (ADAP), provided for original airport construction and expansion. The industry generally feels that ADAP funds have not met aviation needs recently, and there is strong doubt that future funds will be sufficient. ADAP's methods have inspired a build-and-then-crumble-away cycle in airport facilities, so the problem is with maintenance, not construction.

The aviation industry has spoken in favor of increased state and county involvement in airport funding. The 1% increase in the State's oil severance tax to take effect in July 1983 will earn approximately $5 million per year. The Transportation Council recommends that half be dedicated to airport maintenance and reconstruction. Just as with Federal funds, this state aid should be matched by money from the airports and their sponsoring agencies. A full half of the $2.5 million should go to air carrier airports, serving major airlines, because they are the most in need and serve the most people. (For comparison, it should be noted that Wyoming spends $9 million per year in tax revenues on airports.)

Legislative action is needed to raise the permissable property tax levy for support of airports from 2 mills to 4 mills. It should be emphasized that this is a permissve levy; just because a local government *can* ask for 4 mills does *not* mean it must. The following example illustrates the current situation which convinced the Transportation Council that the proposed increase is justified. Belgrade's Gallatin Field and its users contribute about $250,000 per



SCHEDULED AIR CARRIER SERVICE IN MONTANA

year to Gallatin County, through property taxes, ad volorum taxes, etc. associated with the airport. Through the current 2 mill tax levy, the county contributes only $118,000 to the airport.

There is also an oversight in the existing airport mill levy statute. As it is written, once the governing body of a city airport certifies a mill levy, the city must levy that tax. However, the law only implies and does not specifically state the same requirement for city/county or county airports. The Legislature should reword and thus clarify the statute.

AIRCRAFT PROPERTY TAXES

Though people come to Montana and buy corporate aircraft to avoid paying sales tax, few corporations base aircraft in Montana because of the high property taxes involved. Montana can encourage corporations to base aircraft in the state, and thus reap the revenues they generate, by instituting more equitable property taxes on aircraft. Automobile taxes should serve as a model.

III. ENERGY TRANSPORTATION

New technologies for transportation of energy commodities, especially large petroleum pipelines and coal slurry pipelines, have spawned controversy throughout the state. The Transportation Council responded to this controversy by undertaking a study of three proposed energy transportation facilities: the Northern Tier petroleum pipeline, the Energy Transportation Systems Incorporated (ETSI) coal slurry pipeline, and the coal slurry line proposed by the Powder River Pipeline, Incorporated. Northern Tier continues its efforts to secure the permits necessary for construction; it was denied permission to build in Washington State. ETSI plans to begin construction of its coal slurry line from Wyoming to Arkansas in 1984. Powder River is studying the feasibility of a coal slurry pipeline from the Powder River Basin to the Great Lakes.

RECOMMENDATIONS

Extensive research and discussion led the Council to make three recommendations:

1. Bulk liquid commodities pipelines, as common carriers, should be encouraged to develop in and through the state. A positive economic development environment should be created by state agencies and government in general. The Governor is encouraged to promote this concept through cabinet level discussion and legislative implementation. *(Vote: Unanimously passed).*

2. Montana water is growing in importance as a production resource for all Montana agricultural and industry. Decision on future water appropriation should be made only after thorough analysis and public review. The Committee recommends that commitment of water resources for slurry pipelines should be judiciously and cautiously undertaken. *(Vote: 9-yes; 6-no).*

3. The Council recommends repeal of the prohibition of the use of state water for coal slurry pipelines and in place thereof to provide for prioritization of such use as subservient to domestic and agricultural consumption. *(Vote: 9-yes; 5-no).*

The following two additional recommendations were proposed but rejected by the Council by the vote recorded:

***Coal slurry pipelines may well be in Montana's future, but immediate and short term (10 year) coal transportation needs can be met by the railroad system. The Committee does not recommend any change in legislation or state policy toward coal slurry pipelines. *(Vote: Motion to reject* = 8-yes; 6-no; 1-abstained).

***The methods of transportation of Montana's coal resources should be determined in the market place. Competing modes of transportation should be placed on equal footing under state law. The Council recommends that coal slurry pipelines be permitted the right of eminent domain as a public use under the laws of the state. *(Vote: Motion in favor = 5-yes; 8-no; 1-abstained).*

OIL PIPELINES

Having studied the Northern Tier's proposal, the Council concluded that pipelines can be a cheap, efficient, and safe way to transport liquid commodities such as oil and natural gas. However, Northern Tier's experience points out an important problem that should be addressed by state government, namely the permitting process. Obtaining permission to build such a facility is an expensive and time-consuming process.

Once the market determines that such a facility is desirable, it becomes government's task to see that construction is carried out in a responsible manner. Consequently, both their permitting process and construction regulations must be reasonable. In seeking permission to build, Northern Tier spent $50 million over the past five years on permit applications. The process was repetitive and burdensome and often placed Northern Tier in the role of the antagonist. In North Dakota and Idaho, after discussion and resulting compromises, permits were granted by a single authority. However, in Minnesota, Montana, and Washington, as well as in dealings with the federal government, authority is dispersed through a number of different agencies, adding complexity and often inconsistency to the process.

The Transportation Council thus recommended that the permitting and regulatory procedures in Montana be simplified. In addition, the Council asked the Governor's Loaned Executive Program to review and streamline the permitting process.

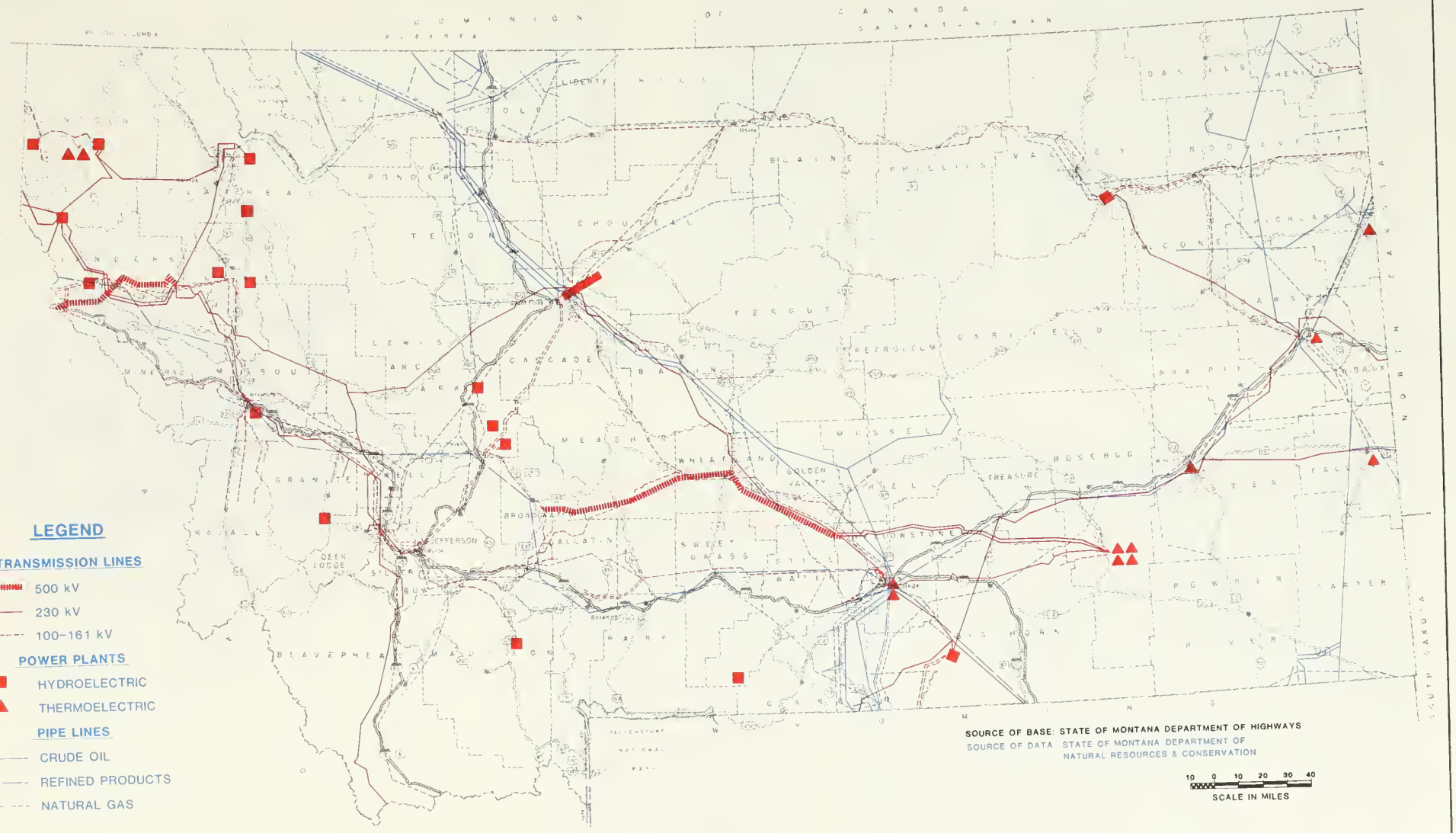
COAL SLURRY PIPELINES

The suggestion that energy pipelines be encouraged through simpler regulation also applies to coal slurry pipelines. But the issue of coal slurries involves two special problems in addition to those of siting regulations — the power of eminent domain for private carriers, and water diversion.

Many petroleum pipelines, such as the Northern Tier, define themselves as "common carriers", and as such are required by law to ship anyone's petroleum that can pay the transportation charges. They have been ruled to serve a public use and thus have the power of eminent domain. Railroads which are common carriers also have this power of eminent domain. To date, coal slurries have been formed as private carriers, and do not have "public use" status. (To cross railroad right-of-way, ETSI spent $22 million in court, and had to buy land at the open market's prices.) The coal slurries now being planned or developed are private carriers owned and operated by the same people who buy and sell coal. They need not ship anyone's coal but their own. The issue of jurisdiction for granting eminent domain powers is a state's right issue soon to be debated by Congress and ultimately the courts. It is questionable whether the State of Montana should consider granting the power of eminent domain to a coal slurry developer until jurisdiction is resolved.

The critical question is whether or not Montana has water to spare for a coal slurry pipeline. According to the DNRC, 40 million acre-feet of water leave Montana each year. From existing reservoirs, 300,000 acre feet per year are available for new uses, and the Yellowstone Basin alone holds about two million acre feet of undeveloped water. So Montana might profit from selling water as do other states. For example, in return for 20,000 acre feet per year of water from Oahe Reservoir, ETSI will give South Dakota some $1.3 billion and 5,000 acre feet per year for towns along the pipeline.

Besides slurries, there are two other methods for Montana to market its coal: burn it at the mine mouth and generate electricity which is ultimately transported to market, or ship it out by rail. The railroads need insignificant amounts of water. But power plants, in addition to their other environmental problems, require a great deal of water for cooling purposes — three to seven times as much as a slurry would need.



MONTANA – ENERGY TRANSPORTATION SYSTEM

There are potential drawbacks to the commitment of water resources for coal slurries. The outward flow of water from Montana is seasonal, spread over a wide area, and costly to develop for industrial use. Sixty percent of it leaves during June and July, and water from existing reservoirs already sells for about $25 per acre foot. If irrigation, the principle use of Montana water, must compete with industry for water from costly projects, it may be outpriced. Finally, any sale of water for a coal slurry line must also consider the current adjudication of water rights will not be completed for at least five years. Conflicts may ultimately arise during adjudication between industrial, wildlife and urban water reservations. The question of water rights of downstream states are also presently unknown.

The Transportation Council recognizes that water must be carefully apportioned, but it believes that the state law prohibiting the sale of state water for coal slurry purposes is an unfair intervention in industrial competition. This blanket prohibition may lead to even greater water use by power plants and may negate the advantages Montana enjoys as a headwater state. For these reasons, the Council recommends that the prohibition be repealed and that water be assigned for coal slurries with the understanding that slurries never gain priority water rights over agricultural and domestic use.

EMINENT DOMAIN

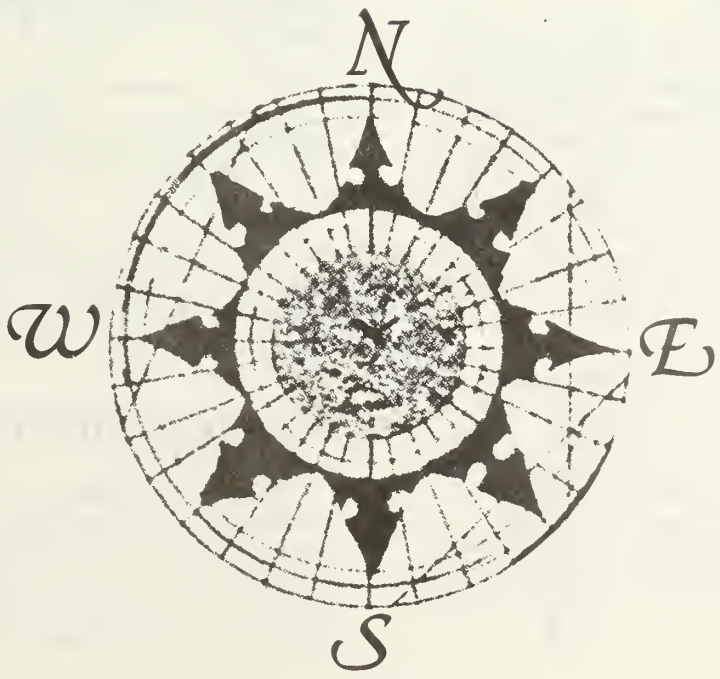
The power of eminent domain finds its roots in historical necessity. It is a political right to take the property of individual members of a society for the needs of the whole community. The right is traditionally the right of the sovereign or the state, but it is a right that may be delegated by the state to other agencies, political subdivisions, individuals, and corporate entities.

The exercise of the power of eminent domain is conditioned on three basic requirements: *1) public use, 2) due process, and 3) just compensation.* Absence of any one of the elements will defeat the exercise of the power.

"Public use" is defined differently in varying jurisdictions. Some states hold that public use entails a holding for use generally by the public; i.e., public highways, communication lines, railroads, and common carrier pipelines. Other jurisdictions, including Montana, have accepted the doctrine that "public use" simply means public convenience or benefit, or that which will benefit the commonweal of the community generally. This general convenience can include creation of jobs, development of resources, or other matters leading to growth of the community. *See: A. & P. R. Co. v. Montana Union R. Co., 16 Mont. 504, 41 Pac. 232; MCA, 70-30-102.*

"Due process" simply requires an opportunity for hearing to determine 1) whether the taking is for a public use, and 2) whether the party will receive just compensation. The guarantees of due process are usually met through judicial review after appropriate notice.

"Just compensation" is determined to be the market value of the property, or interest in the property, taken. The compensation is generally adjusted to reflect incidental damage and/or enhancement of value to property not taken but affected by the taking.



IV. HIGHWAYS

Over the past sixty years Montana has built an 11,000-mile system of highways with federal aid and user fees. After the gasoline tax went up to 5 cents per gallon in 1929, the state began to issue bonds for highway construction, and the user fees still provided the money to repay those debts. In the post World War II years, the state returned to pay-as-you-go highway user financing. Montana has not entered into debt to build highways in well over twenty years. Now, the state's major capital asset, its highways, faces ruin.

The user fee tradition is in trouble. Fuel tax revenues have gone down while the price of highway construction has gone up. Federal aid has been drastically cut back. When considering user fees as a source of highway financing, it is important to remember that Montana has 105 miles of highway for every thousand citizens, the highest ratio in the nation.

RECOMMENDATIONS

The Transportation Council recommends the following six measures designed to generate $48 million for highway reconstruction and maintenance from both user fees and other sources:

1. The current 1-cent fuel tax that ends July 1, 1983, should be made permanent. *(Vote: Unanimously passed).*

2. Both gasoline and diesel fuel taxes should be increased an additional 3½ cents. *(Vote: 14-yes; 2-no; 1-abstained).*

3. The Council recommends the continuation of a study currently being done by the Department of Natural Resources and Conservation, Energy Division, and the Department of Revenue, Motor Fuel Tax Division, relating to taxation of alternate fuels used on highways. The Council further recommends that those vehicles should pay their fair share and that the appropriate agencies devise a taxing structure to achieve this. *(Vote: 15-yes; 2-no).*

4. Gross vehicle weight (GVW) fees should be raised 35 percent across the board. Furthermore, the exemption for ready-mix concrete trucks and low-boy trailers hauling construction equipment should be eliminated; the exemption for logging vehicles should remain as is — 75 percent of the standard rate; and the exemption for farm vehicles should be raised from 16 percent to 37.5 percent of the standard rate. *(Vote: 16-yes; 1-no).*

5. The Highway Patrol should be completely supported by state general funds. *(Vote: 16-yes; 1-no).*

6. Of the total coal severance tax, 20 percent should be diverted from the coal trust to the Highway Reconstruction Trust Account. The Council also supports a constitutional amendment to that effect. *(Vote: 16-yes; 1-no).*

A seventh recommendation was also passed by the Council:

7. Since the Highway Financial Districts are an impediment to the prioritizing of statewide highway projects and needs, and impede the best use of the funds on a statewide basis, a better method should be devised for the benefit of the state. *(Vote: 16-yes; 1-no).*

8. The Council further recommends that until a constitutional amendment for diversion of coal trust funds (Recommendation No. 6) has been adopted, that the Legislature dedicate 20 percent of the coal severance tax to the Highway Reconstruction Trust Account. *(Vote: Unanimously passed).*

9. The $5 million available through one-half of the scheduled one percent increase in oil severance tax, going into effect in 1983, should be made available for transportation uses in Montana other than for highway construction or reconstruction use. *(Vote: Unanimously passed).*

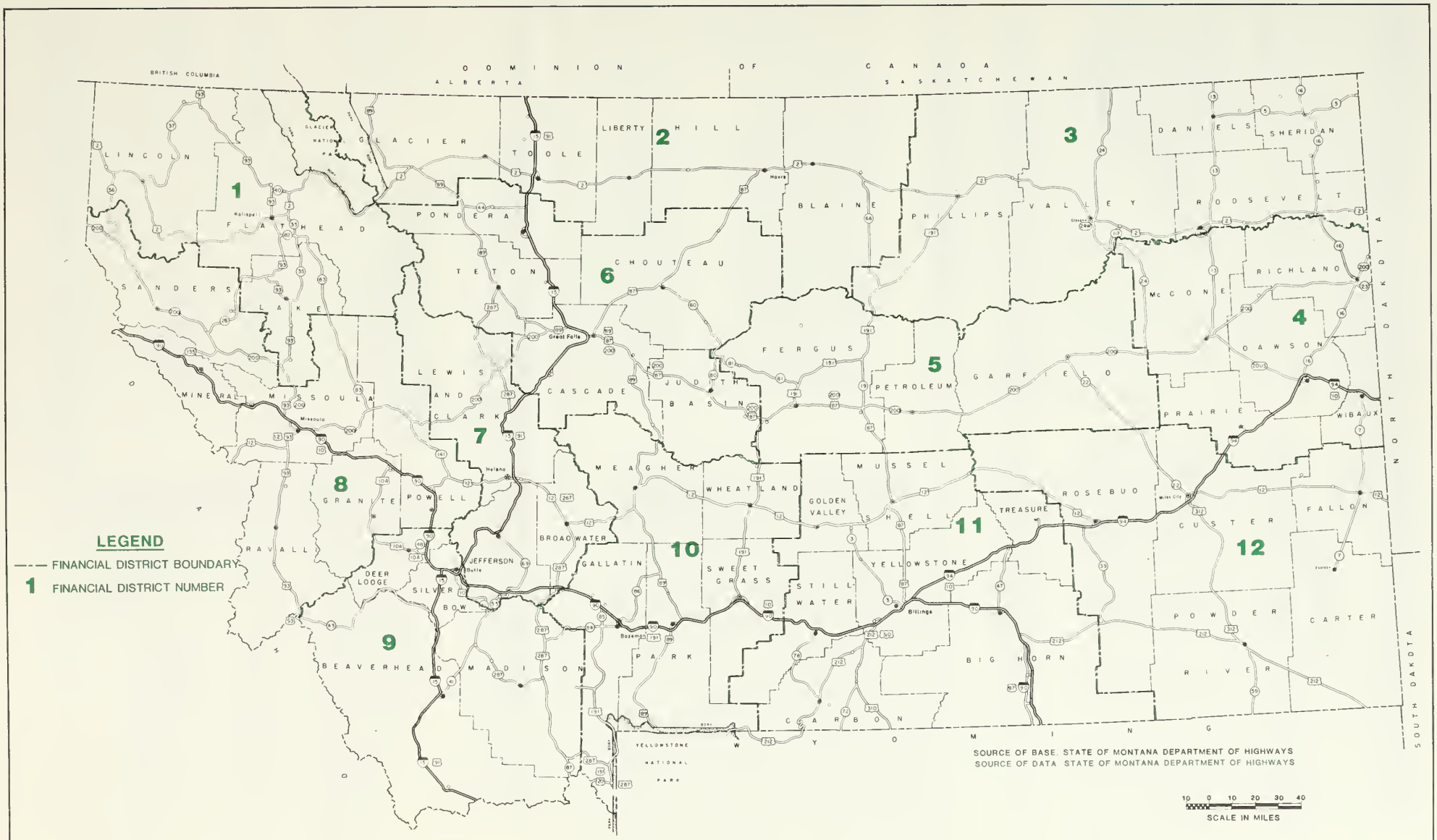
One proposed recommendation was rejected by the Council by the vote recorded:

The interest on the funds in the highway earmarked revenue account should be retained in the account, which would add approximately $1.5 million per year. *(Vote: 7 yes; 10-no).*

** *The Transportation Council also unanimously rejected the following sources of highway financing: the interest on the Highway Earmarked Revenue Account, Bonding, GVW fines, Traffic fines, and License fees.*

PRESENT HIGHWAY FUNDING

Money for Montana's highway system now comes from the State's Highway Earmarked Revenue Account #02138, the Highway Reconstruction Trust Account, and the Federal Highway Trust Fund. The Earmarked Account receives revenue from four sources *(See Table 1).*



MONTANA HIGHWAY SYSTEM AND FINANCIAL DISTRICTS

TABLE I: Revenue of the Highway Earmarked Revenue Account No. 02138 (millions of dollars).

Source	Fiscal Year 1978	1979	1980	1981	1982	1983
Fuel Taxes						
Gasoline (9¢/gal.)*	36.9	39.3	39.3	36.2	36.8	36.8
Diesel fuel (11¢/gal.)	9.4	9.9	10.7	11.7	11.7	12.3
GVW Revenues**	17.0	17.5	19.0	19.2	20.6	20.8
Mineral leases	2.7	2.8	3.0	4.4	5.3	6.1
Miscellaneous	0.6	0.5	0.6	0.6	0.6	0.6
TOTAL	**67.0**	**68.3**	**72.6**	**72.1**	**75.0**	**76.6**

**Yearly figures are after diversions for snowmobiles and motorboat programs, $1/2 million in 1981; and include a temporary 1¢/gal. tax, 1979-1983.*

***Includes new car sales tax.*

Fuel taxes are the Account's largest source of revenue, about $48 million per year. Despite higher tax rates, conservation measures have caused gasoline tax revenues to decline over the past decade. A 5-cent-per-gallon increase in the gasoline tax, and 6 cents in the diesel fuel tax, were proposed in the 1981 Legislature, but were rejected.

Earmarked Account revenues generated through the Gross Vehicle Weight Division of the Department of Highways (DOH) are of three types *(See Table 2)*. "GVW taxes" on trucks, trailers, and other heavy equipment earn the bulk of GVW revenues. "GVW permits" are for vehicles beyond allowable sizes and weights, licensed in other states, fueled by liquified petroleum gas (LPG), and several others. There is also a sales tax on new cars. These revenues are collected by the GVW, Highway Parol, and county treasurers. They all go to the Earmarked Account except for a small portion kept by the counties, about $1/2 million in fiscal year 1981. Many of these taxes and permit fees have not changed for the past ten to twelve years; over the same period, their revenues increased some 85 percent. Legislation in 1981 raised permit fees and revenues by $1.5 million per year.

TABLE 2: Revenue to the Highway Earmarked Revenue Account No. 02138 through the Gross Vehicle Weight Division

Source	Revenue in #02138 in Fiscal Year 1981	Rate & Distribution
GVW taxes	$12.4 million	Taxed according to weight schedules. #02138 receives 95 percent of truck and trailer taxes if collected by counties, and 100 percent of the same fee collected by MDOH.
GVW permits	$2.6 million	1981 increases to earn additional $1.5 million. #02138 receives 100 percent of fees.*
New car sales tax	$4.2 million	1.5 percent of manufacturer's list price. #02138 receives 95 percent if collected by counties and 100 percent if collected by MDOH.

**Except custom combine permits, 37.5 percent, or $19,965 in 1981.*

The Earmarked Account's mineral lease revenues come from federal mineral leases within the state. Miscellaneous revenues include accounts receivable, and rent and sale of DOH property.

It is reasonable to expect revenue to the Highway Earmarked Account to total $72 million for Fiscal Year 1981, and to increase to $81 million for Fiscal Year 1983. However, this is not enough to support Montana's highway system, because all of the Account is not spent by DOH, or for highway projects *(See Table 3)*. Over the next four years, an average of $14 million per year will be diverted to the Highway Patrol, to local governments, to the Department of Administration for construction of DOH buildings and to fuel tax administration.

TABLE 3: Expenditures from the Highway Earmarked Revenue Account. #02138 (millions of dollars).

	Fiscal Year			
Expenditure	**1982**	**1983**	**1984**	**1985**
Highway Patrol (Department of Justice)	5.0	5.5	5.9	6.4
Local Governments	6.7	6.7	6.7	6.7
Long Range building (Department of Administration)	.2	0.0	0.5	0.5
Fuel tax administration (Department of Revenue)	0.6	0.7	0.7	0.7
Total diversion from Department of Highways	(12.5)	(12.9)	(13.8)	(14.4)
Department of Highways	70.8	75.4	81.5	88.1
TOTAL EXPENDITURES	**83.3**	**88.3**	**95.3**	**102.5**

In addition, from 1979 to 1985 the account will spend an average of $10 million per year more than it takes in *(See Table 4)*. The 1981 State Legislature supplemented the Earmarked Account by transferring $4 million in state general funds to its newly created Montana Highway Construction and Reconstruction Trust Fun. The trust fund is dedicated strictly to "bricks and mortar" projects rather than administration or other general expenses, and is distributed according to statewide priorities, without the constraints placed on the Earmarked Account by the Financial District Law *(see "Highway Planning and Distribution of Funds" in this report)*. But even with the Reconstruction Trust, state highway programs will be $13 million in debt at the end of 1985.

TABLE 4: Summary of Montana Highway Financing (millions of dollars).

	Fiscal Year							
Item	**1978**	**1979**	**1980**	**1981**	**1982**	**1983**	**1984**	**1985**
Account #02138								
• Revenue	67.0	68.3	72.6	72.1	75.0	76.6	79.0	82.2
• Expenditures	60.5	70.0	85.0	81.5	72.7	88.3	95.3	102.5
• Expenditures over revenue	---	(1.7)	(14.2)	(9.4)	(6.5)	(7.4)	(16.3)	(20.3)
Reconstruction trust	---	---	---	---	2.0	2.0	---	---
Ending balance	---	---	22.8	13.4	28.9	23.5	7.2	13.1
Federal aid obligation*	98.0	98.0	98.0	64.5	65.4	69.0	69.0	69.0

**Averaged $98 million, 1976-1980.*

So the Highway Earmarked Revenue Account needs help. What of federal aid for Montana's highways? Future federal aid is impossible to estimate accurately because of Congressional disagreement over the budget. The Federal Aid Highway Act of 1978 is expiring and no substitute bill has passed. The one thing certain is that Montana will have less federal money to spend on highway projects than in years past.

Federal money can only be used for construction and reconstruction, but not for maintenance or general expenses. Total federal obligations for Montana highways dropped 30 percent between 1980 and 1981, when $40 million of our apportionment was impounded *(See Table 4)*. The Highway Department's best, and most optimistic, estimates expect $65 million to $69 million per year from 1982 through 1985, $18 million per year of it for reconstruction of primary highways. According to the current federal estimate, $158 million should be apportioned over the next several years for completing the Interstate in Montana. **The state estimates $180 million is required, and it has $14.8 million for Interstate construction in 1982.**

The methods by which Congress distributes highway money will probably change. Through federal fuel taxes and excise taxes, Montanans contributed about $30 million to the Federal Highway Trust fund in 1980, but received nearly $90 million from it. Congress is now considering an *"equal turnback"* system, which would return to individual states only that amount which they contribute. Montana will also lose to other states if federal money is distributed according to population or traffic count. In addition, federal highway funds must now be matched by state funds at the rate of 90 percent to 10 percent for the Interstate, and 78 percent to 22 percent for primary highways, secondary highways, and urban roads. The DOH expects the matching rate for secondary highways and urban roads will change to 50 percent/50 percent.

ADDITIONAL HIGHWAY FUNDING NEEDS

According to the budgets of state and federal highway funds, if Montana's existing highway system is to be preserved, the DOH needs an additional $48 million per year to balance the Highway Earmarked Account, reconstruct primary highways, and conduct preventative maintenance *(See Table 5)*. This figure does not allow for inflation.

TABLE 5: Cost of Preserving Highway System, Beyond Current Budgets and Programs (millions of dollars).

Item	Cost per Year
Balance the Earmarked Account #02138	10
Immediate primary reconstruction*	29
Preventative maintenance	9
Total	**$48 million per year**

**475 miles @ $605,000 per mile, over 6 years, less $18 million per year Federal aid.*

Of 5,400 miles of Montana primary highways, serving through traffic from city to city, 474 miles need immediate reconstruction. The DOH expects to work on 33 miles during the 1981-82 biennium. The Department is working on more accurate project-by-project estimates for this and other work, but currently uses an average cost of $605,000 per mile. Inflation has taken its toll; reconstruction cost $156,000 per mile in 1971. The total cost of this immediate reconstruction, spread over six years, comes to $48 million per year. If Federal aid provides $18 million of that, the State needs an additional $30 million per year. Consider also that the 474 miles in need of immediate reconstruction will increase to 2,194 miles in the next five to ten years.

Further deterioration of the highway system can be arrested by preventative maintenance—seal coats and overlays. The DOH does not have such a program now, but it is the most cost-efficient way to manage a highway system. This expenditure is in addition to regular maintenance expenses (which will continue at the 1982 level of $37 million per year, plus allowance for inflation). Maintenance costs of $1500 per mile in 1971 increased to $2900 per mile in 1981.

Montana has 1200 miles of Interstate highway, with 81 miles yet to be built. The DOH does not recommend any increase in State support for that work.

NEW SOURCES OF HIGHWAY FUNDS

The Transportation Council looked at twenty possible sources to help provide the additional $48 million per year needed by the Department of Highways, and chose six *(See Table 6)*. If adopted, these measures will provide both short-term and permanent, long-term financing without creating competitive advantages for particular modes of transportation. It is important to emphasize the DOH's need for *long-term* financing in order to make long-range plans and stabilize its personnel.

TABLE 6: New Revenue Sources for Highway Projects

Source	Revenue (millions of dollars/year)
Make permanent the temporary 1¢/gal. gasoline tax	(5)*
Increase fuel taxes an additional 3.5¢/gal.	18
Tax alternative fuels such as propane and gasahol	(negligible)
Raise GVW taxes 35% across the board	5
Use State general funds to support the Highway Patrol	5
Earmark 20% of coal tax revenues for the Highway Reconstruction Trust Account	20
Total additional revenue	**$48 million/year**

**This is not a new source; it simply maintains an old one that will otherwise end in 1983.*

The first four measures, fuel and GVW tax increases, will require new additional contributions to the Highway Earmarked Account by traditional highway users. Gasoline and diesel fuel taxes will rise to 12.5 cents per gallon and 14.5 cents gallon respectively. Each one cent per gallon of gasoline tax costs the average non-commercial motorist about $10 per vehicle per year.

Taxing unusual motor fuels—propane, butane, gasahol, natural gas—will not generate significant revenue. But in the interests of equity, those who burn these fuels should pay their share of highway support. The Department of Revenue currently has no authority to tax these fuels, and the Council suggests establishing a comprehensive "special fuel tax" which would replace the present L.P.G. fuel license. The matter is being studied by the Department of Natural Resources and Conservation and the Department of Revenue; they intend to complete their studies in the spring of 1983. The Council encourages their work.

As well as raising the GVW taxes, the Council recomends ending the exemptions for concrete trucks and low-boy trailers hauling construction equipment. Permits for concrete trucks can be purchased on a monthly basis. Because logging trucks spend so much time off the highway, they should continue to pay their current rate of 75% the standard tax. Farm vehicles should pay half the logging-truck rate but exceptions should be made for farm vehicles not suited to highway travel.

The next measure would add to the Earmarked Account by requiring the State general fund to support the Highway Patrol. Prior to 1979, the Patrol was entirely supported through the general fund. However, from 1979 to 1981, the Patrol was entirely supported from the Earmarked Account. The 1981 Legislature again changed the formula so that the Earmarked Account provides wages for uniformed officers; the general fund provides the rest of the Highway Patrol's budget. The Transportation Council suggests that the Patrol again be supported entirely by the general fund.

Finally, the Transportation Council recommends that 20% of total coal tax revenues be diverted from the coal trust fund to the Highway Reconstruction Trust Account. Since 1979, the coal trust has received 50% of coal tax revenues, but before that it received only 25%. Highway projects are a perfectly valid use of money now going into the coal trust because they are an investment to serve future generations, the original intent of the coal trust. Such sound investment in facilities of use to the entire nation will aid in defending the coal tax

before the rest of the nation and may well be more profitable than current investments of the coal trust.

There are several ways to accomplish this change in coal tax distribution. The Council prefers that the money go into the Highway Reconstruction Trust Account because that will guarantee its use for "bricks and mortar" construction projects, rather than administration or general expenses. And the Council supports the Sieffert-Conroy constitutional amendment initiative because it will insure a permanent diversion.

The Council does not recommend using interest on the highway trust fund, about $1.5 million per year, for highways because that money presently goes to the general fund. A diversion of the interest would be too hard for the general fund to replace. The Council also opposes bonding for highway projects at the present time because it is no real source of revenue. It opposes diverting GVW fines, traffic fines, and license fees to the Earmarked account because they are either small amounts under local government control, or they are collected by the Highway Patrol. The Earmarked Account should not make further demands on the Patrol at the same time it withdraws its support.

HIGHWAY PLANNING AND DISTRIBUTION OF FUNDS

Highway funding and planning are interrelated; one cannot be accomplished without the other. While consistent funding is a necessary basis for highway planning, careful planning and projections for the future are necessary to insure proper and efficient use of the funds provided. Highway planning should set its priorities both in terms of statewide highway needs and local needs.

Funds for highway projects are now distributed according to the State's Financial District Law, which divides the State into twelve districts and seeks to equitably distribute highway funds among the districts, counties, and cities. Because Federal funds must be matched by state funds, the law controls the distribution of both. The funds are distributed according to various ratios of cost, miles of road, etc. in a given locality *(See Table 7)*. Within localities, spending priorities are decided by various combinations.

The Financial District Law was designed to finance the early construction of Montana's highway system, and did not provide for long range planning and the setting of priorities on a statewide basis. The road which is first priority in one financial district may rank fifth or even tenth priority on a statewide basis, and still get repaired. Because of the law, localities and counties often have to accumulate their annual apportionments for a number of years if they wish to take on a major project. At times they may end up spending the entire amount on a road that benefits the state as a whole very litte.

TABLE 7: The Financial District Law, Distribution of Funds for Three Major Highway Programs.

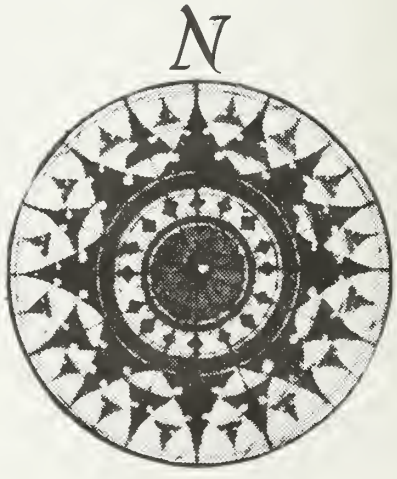
Program	Distribution Ratio* (unit of measure; local/state)	Agency Setting Priorities
Interstate construction	Cost of completion; district/state	DOH
Primary highways	Deficient miles; district/state	DOH with concurrence of Highway Commission
Rural secondary roads	1/4 by land area, 1/4 by rural population, 1/4 by rural road miles, 1/4 by rural property value; county and district/state	County Commissioners with concurrence of DOH

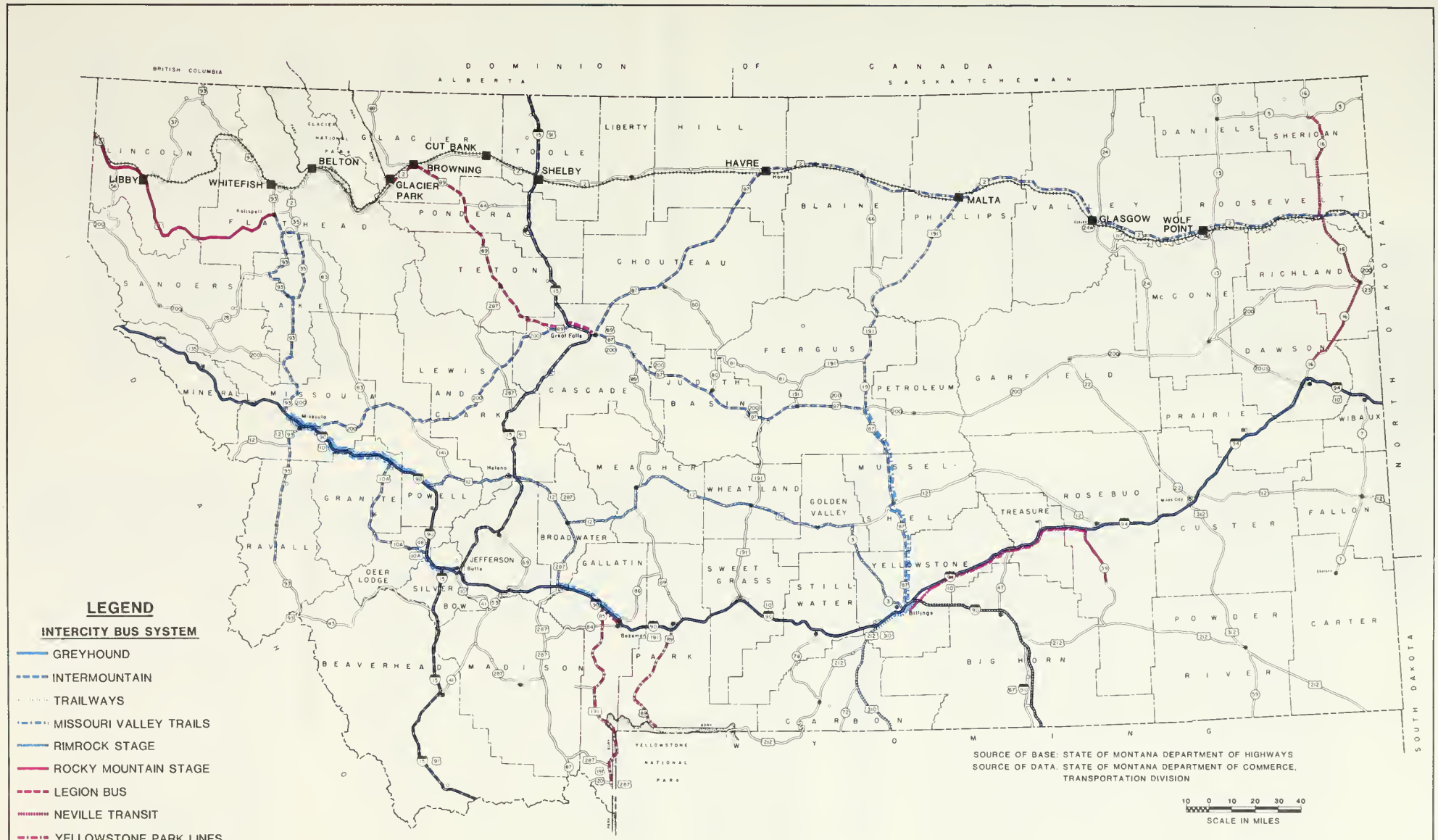
**For example, Interstate construction money is distributed to each district according to the ratio of the cost of completing the Interstate in a given district to the cost of completing it throughout the state.*

In order to better establish long term, statewide highway needs, the Council recommends that a statewide highway plan be developed on a six year basis and updated yearly. A short-term, two-year plan should also be established, indicating contract dates for all projects. This plan should be updated every six months. This two tiered planning system would provide for both more efficient highway program planning and sequential project planning. Within this system, priorities would be set according to state highway needs.

The Council's concern is with all of Montana's federal aid system, which consists of the Interstate, primary highway, and secondary road programs. Today's Interstate construction program primarily seeks to finish the system's uncompleted segments. The chief problem in completing Interstate portions is in the amount of money available from the U.S. Department of Transportation. For completed portions of the Interstate system, a "4R" funding assistance program is available for reconstruction, rehabilitation, resurfacing, and repair. A pavement sufficiency and maintenance evaluation program needs to be developed and incorporated into the planning program previously described.

The primary highway system is the most important state system and therefore receives the greatest emphasis from the Montana Department of Highways. Present sufficiency rating and pavement monitoring programs have resulted in better planning for primary highway needs than was available in the past. However, the current financial district law continues to hamper efforts to maintain and construct the primary highway system based on statewide needs.





LEGEND

INTERCITY BUS SYSTEM

- GREYHOUND
- INTERMOUNTAIN
- TRAILWAYS
- MISSOURI VALLEY TRAILS
- RIMROCK STAGE
- ROCKY MOUNTAIN STAGE
- LEGION BUS
- NEVILLE TRANSIT
- YELLOWSTONE PARK LINES
- WILSON TRANSPORTATION – MOSS TRANSPORTATION

- AMTRACK & TERMINALS

SOURCE OF BASE: STATE OF MONTANA DEPARTMENT OF HIGHWAYS
SOURCE OF DATA: STATE OF MONTANA DEPARTMENT OF COMMERCE, TRANSPORTATION DIVISION

10 0 10 20 30 40
SCALE IN MILES

MONTANA – SURFACE PASSENGER TRANSPORTATION

V. INTERCITY BUS TRANSPORTATION

Montana is served by a network of ten separate, privately owned, intercity bus companies which travel daily to 230 Montana communities in 50 counties. In contrast, commercial air passenger transportation is available to 14 Montana cities, and passenger trains service 21 communities. Thus, intercity busses provide the only commercial passenger transportation to most of Montana. For many students, elderly, and handicapped persons who either are unable to operate a vehicle or cannot afford to drive, busses are the only link to air and rail services and to the population centers. But over the past thirty years, the bus industry has moved from prosperity to financial weakness and several Montana carriers have terminated service during the past ten years.

The intercity bus industry does not want any kind of direct operating subsidy from government. However, from the industry representatives, the Public Service Commission, the Montana Travel Promotion Bureau, and the Transportation Division, the Council learned of regulatory burdens. In response, the Council formulated recommendations designed to encourage further study of this service, promote community awareness, and establish a loan program.

RECOMMENDATIONS

1. The Transportation Council recommends a study of intercity passenger service in Montana, to be conducted by the Transportation Division, Montana Department of Commerce, in conjunction with individual carriers; the Public Service Commission; and the Montana Travel Promotion Bureau, Department of Commerce. Subjects of the study shall include:

- *the effects of proposed federal deregulation of the bus industry in Montana, and State regulatory reform;
- *route, schedule, and other system improvements through coordination with airlines, Amtrack, and local transit services;
- *system improvements through better communication networks, reservation systems, travel agency connections, and use of credit cards;
- *cooperation among private carriers, terminal operators, and communities towards terminal improvements.

(Vote: Unanimously passed).

2. The Economic and Community Development Division, Department of Commerce, should work with local communities and organizations to improve community awareness of the benefits of intercity bus service. *(Vote: 9-yes; 4-no; 2-abstained).*

3. A revolving loan program to help fund vehicle purchases by means of industrial revenue bonds should be explored. *(Vote: 10-yes; 5-no).*

The following recommendation was proposed but rejected by the Council by the vote recorded:

In order to bring about increased use of intercity passenger service, consider the utilization of funds from the U.S. Department of Transportation to develop marketing recommendations including a common system theme and logo along with generic advertising. *(Vote: 4-yes; 11-no).*

INTERCITY PASSENGER SERVICE STUDY

The Transportation Council recommends a study of the intercity bus industry in Montana financed with federal money. In addition to the subjects specified by the Council's recommendations, the study should address the financial health and needs of the industry, and the demand for its service.

The routes and schedules of Montana's nine smaller bus lines are tied to those of the Greyhound Lines, and often fail to mesh with other passenger services. Though a marketing problem within a private industry, this is also a public problem. Also, unlike air carriers, the bus industry must provide its own terminals and bear the accompanying expense while cities often fail to cooperate with efforts to improve terminals.

The two problems cited above are examples of the numerous aspects of intercity passenger service which effect both the private and public sectors, and thus require formal study as recommended.

LOAN PROGRAM

Besides the study of the intercity bus industry, the Council recommended the use of industrial revenue bonds to provide a revolving loan program. If given low-interest loans, Montana's bus operators could replace aging vehicles. Low profits and high interest rates have made it difficult for most operators to meet this considerable capital expense. Industrial revenue bonds now help commuter airlines in Montana to purchase aircraft, and a similar arrangement works well for the bus industry in Michigan.

VI MOTOR CARRIERS

Diesel powered vehicles traveled approximately 522 million miles in Montana during 1981, with transportation consumers paying up to one billion dollars for transportation. It is estmated that over 200,000 trucks operate in and through Montana with thirty-four percent of these units based in the State.

Further indications suggest that the economic viability of the state of Montana will increasingly depend on truck transportation. Most of the heavy duty trucking in Montana results from the State's natural resource base—the grain industry, logging, and the development of petroleum resources.

In addition to these natural resource related industries, which employ heavy trucking, motor carriers provide the only method available for moving commercial freight for many Montanans. With recent rail line consolidation, over 60 percent of Montana's communities are presently without rail service. Where railroads and trucks serve the same market, trucks provide the only real competition to the rail industry, since Montana is totally without water transportation.

Coupled with the relatively high need for truck transportation in the state of Montana, one additional burden was found to exist with the use of the motor carrier industry. Heavy trucking demands are severely compounded by the geography of the State. Among the more interesting numbers when one compares Montana with such places as the Northeastern United States, it was found that the Montana population per square mile is 5.1 versus 303 for the Northeast United States. Each Montanan must support .1 miles of road whereas a citizen of the Northeast must maintain only .04 of a mile. Because of the shorter distances to urban centers in most of the United States, 8.25 people in the Northeast are able to place their needs on a single truck, whereas 3.25 people must absorb the cost of a truck in Montana. Unfortunately in Montana not only is it necessary to pay more per road mile and more per truck per capita, but because of our immense distance and sparse population, we must pay for a truck which operates far more miles and hence is much more expensive than most anywhere else in the country.

While defining the problems of the motor carrier industry, several pertinent facts related to trucking were noted and are included as follows:

(1) With the exception of small portions of the Interstate system, the sections of highway most heavily used by truckers in Montana are short sections of the primary highway system generally serving the local needs of the timber, grain, and oil industries. The truck use of these roads is predominantly by vehicles carrying truckload lots of dense freight. *(Refer to Map — Montana Traffic Volumes — 1981).*

(2) The use of the Interstate highway system is predominantly for motor carriers traversing the state of Montana and does not benefit Montana industry. The trucks engaged in interstate commerce are predominantly 5-axle combinations with a high proportion of low density freight.

(3) Most of the problem roads in a deteriorated condition are in areas of the State which combine population, a natural resource economic base, and mountainous terrain.

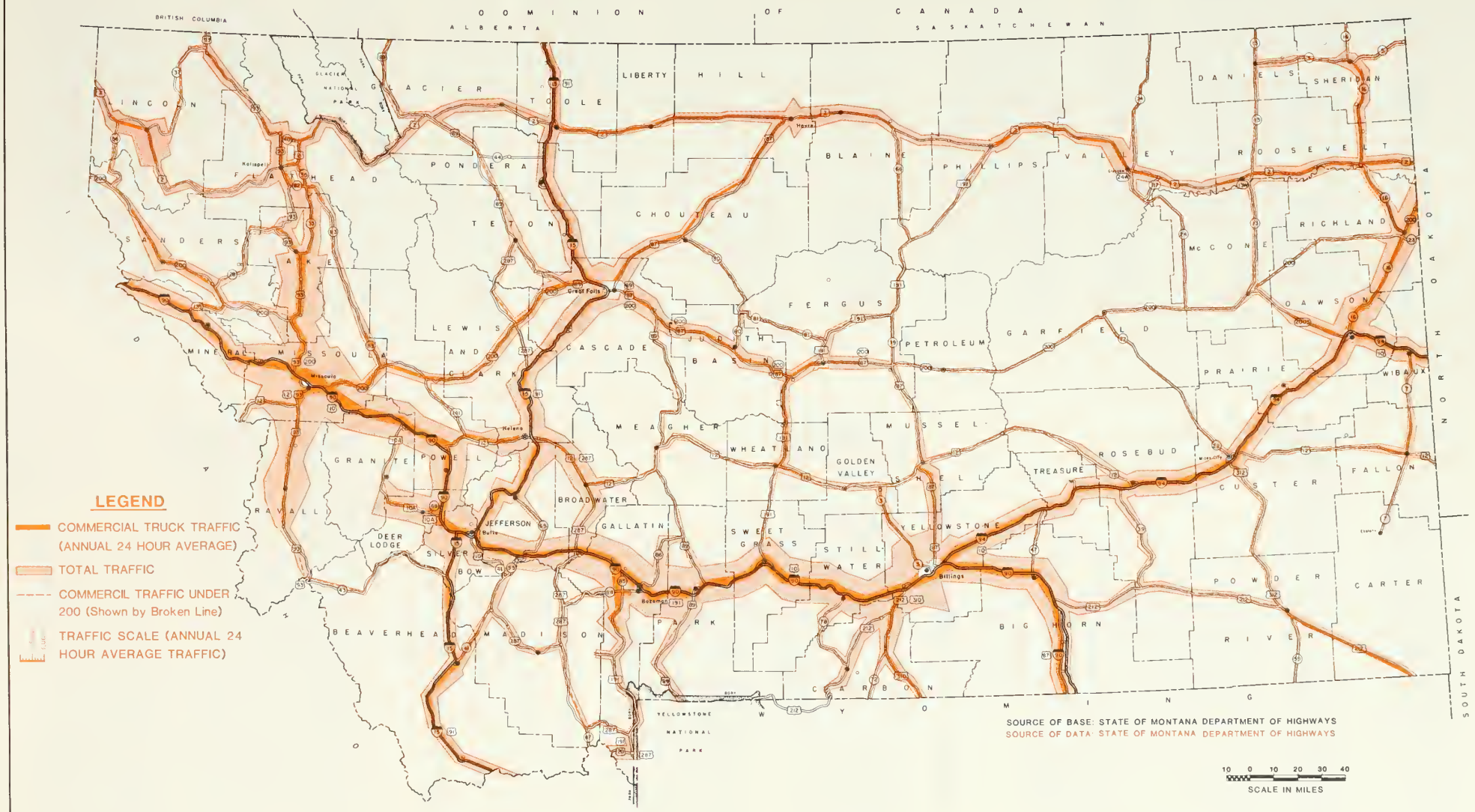
(4) Discovered on the State's primary highway system were 12 problem areas of which 8 areas had high density truck traffic. High density truck traffic was considered those road sections with an average of over 400 trucks per day. *(Refer to Map — Montana Highway Problem Areas).*

(5) Of the 8 areas of high density truck traffic, 5 of those areas also had high density total traffic. High density total traffic was considered those road sections with an average of over 3700 total vehicles per day.

(6) Of those same 8 areas, 7 areas had almost completely deteriorated roads, i.e. those highways designated as critical by the Montana Department of Highways. *(Refer to Map — Highway Sufficiency with Weigh Stations).*

(7) There were an additional 4 problem areas found to exist that will be deteriorated within 10 years without increased protection and improved maintenance.

(8) The enforcement of weight limits within the State is nearly impossible because of the predominantly local nature of the hauling combined with the high number of miles of highway in the state of Montana. *(Refer to Map — Highway Sufficiency with Weigh Stations).*



MONTANA TRAFFIC VOLUMES – 1981

(9) There is a significant problem of illegal overloading of axles in the state of Montana.

(10) Rail abandonment has not had the major impact that many anticipated on the primary highway system in the state of Montana. *(For the location of existing and proposed rail abandonments, refer to map — Montana Rail System and Abandonments with Grain Terminals).*

(11) The larger grain subterminals at this time do not appear to significantly affect the interstate or primary system.

(12) The new rail rates have significantly reduced truck traffic to the Columbia River as well as the Northwest generally; however, Montana Highway 200 is still critically important as an alternative to rail service over the long term.

(13) The State does not have a program to improve the efficiency of its highway transportation system or transportation in general.

(14) Truck productivity in Montana can be improved and rate savings approaching 10 percent are possible in those areas of high density truck traffic. *(Refer to Map — Montana Highway Problem Areas).*

(15) There is a critical need for highway planning which will consider future needs, integration with rail plans and economic benefit to the shipping and highway user community.

(16) The State does not have flexibility in the use of its highway system for promotion of economic development.

(17) There is not information available in the State that can be used to measure the impact of the cost of transportation on Montana's ability to retain or attract business.

(18) There is poor coordination between Montana and the surrounding states on the application of the same bridge formula, weighing procedures and truck routes.

(19) Major highway construction needs do not fall evenly within the financial planning districts; in fact, it has been determined that highway critical needs fall in only one-half of the districts.

(20) There is little coordination between the various State agencies that affect highway transportation.

During the Council's evaluation of solutions to these problems, it was assumed the following criteria had to be met in any solution:

A. Retain or improve existing levels of safety.
B. Have a favorable impact on the economy.
C. Result in improved fuel savings.
D. Operate within the existing highway system and budget.
E. Require no increased administration or control.
F. Be compatible with the federal law.

RECOMMENDATIONS

The Council's recommendations which attempt to increase motor carrier efficiency and ease the burden on the State's highways fall within four categories: weight and size regulations; enforcement of regulations; administration; and economic development.

A. **Weight and Size Regulations**

A-1 Remove the 105,000 lbs. gross combination weight maximum from the truck restricted route permits and allow the maximum to be determined by the existing axle limits and Formula B.

Results:
A. decrease truck traffic by 21 percent
B. reduce trucking cost by 4.5 percent
C. reduce fuel consumption by 5 percent
D. reduce highway and bridge damage

Note:
Above effects will vary according to concentration of traffic type. It is unlikely that this proposal will have a significant effect on interstate traffic in the near future. The major effect will be in the timber and grain shipping areas within the State. In an attempt to measure the total truck miles of travel affected by this recommendation, the following procedure was used:

The Gross Vehicle Weight Division of the Montana Department of Highways estimates that approximately 4,000 trucks currently operate on one-year term permits up to 105,500 lbs. GCW.

Of those 4,000 units, one must assume that some units operate only in interstate commerce and therefore could not exceed 105,500 lbs., even if Recommendation A-1 were enacted. Other vehicles may operate between 80,000 lbs. GCW and 105,500 lbs. GCW and also would not be affected. In attempting to determine what percentage of the trucking activity in Montana might be affected by this proposal a range may be estimated by the following method:

a. All diesel trucks generate close to 522 million miles per year in Montana.
b. Approximately 4,000 permits are issued annually allowing up to 105,500 lbs. GCW.
c. If, at the low end of the range, 50 percent of the trucks operating under a restricted route permit would be affected by this recommendation and operate only 80,000 miles per year each, then 31 percent of the total truck activity in the State would be affected. [(5 x 4000) x 80,000] ÷ 522,185,290.
d. If, at high end of the range, 75 percent of the trucks operating under a restricted route permit would be affected by this recommendation, and operate at 120,000 miles per year then 69 percent of the total truck activity would be affected. [(.75 x 4000) x 120,000] ÷ 522,185,290.

Although 31 percent to 69 percent represents a broad range of total truck miles affected, narrowing the range would be a difficult and expensive task. Further, the range represents only the effect on total trucking. Effects in the specific problem areas to which this recommendation is addressed would be much higher because of the higher concentrations of dense commodities (Example: forest products, grain). It is likely that this recommendation would have greater effects on forest products and grain, but would have little effect on low density general freight loads. In non-problem areas, the effects of Recommendation A-1 would be negligible.

(Vote: 15-yes; 1-no; 1-abstained)

A-2 Increase the vehicle length allowed under restrictive route permits from 85 feet to 95 feet in combination with Recommendation A-1.

Results:
A. decrease truck traffic by 29 percent.[1]
B. reduce truck costs by 9.5 percent on dense freight.[1]
C. reduce truck cost by 17 percent on low density freight.
D. reduce fuel consumption by 8 percent.[1]
E. reduce highway and bridge damage.
F. no significant change in vehicle configuration.

Note: Under this recommendation, prohibit any more than two trailers in a combination. Same note as in Recommendation A-1 will apply. However, there will be a greater effect on interstate vehicles carrying low density freight to the west and south.

(Vote: 15-yes; 2-no)

A-3 The Montana GVW table used for the restricted route load permit be altered to provide for:
a. extension of the six-axle column to be compatible with Washington and Idaho.
b. 95' overall vehicle length.
c. removal of the 105,500 lbs. limit

(Vote: 16-yes; 1-no).

1/ Cumulative with Recommendation A-1 results.

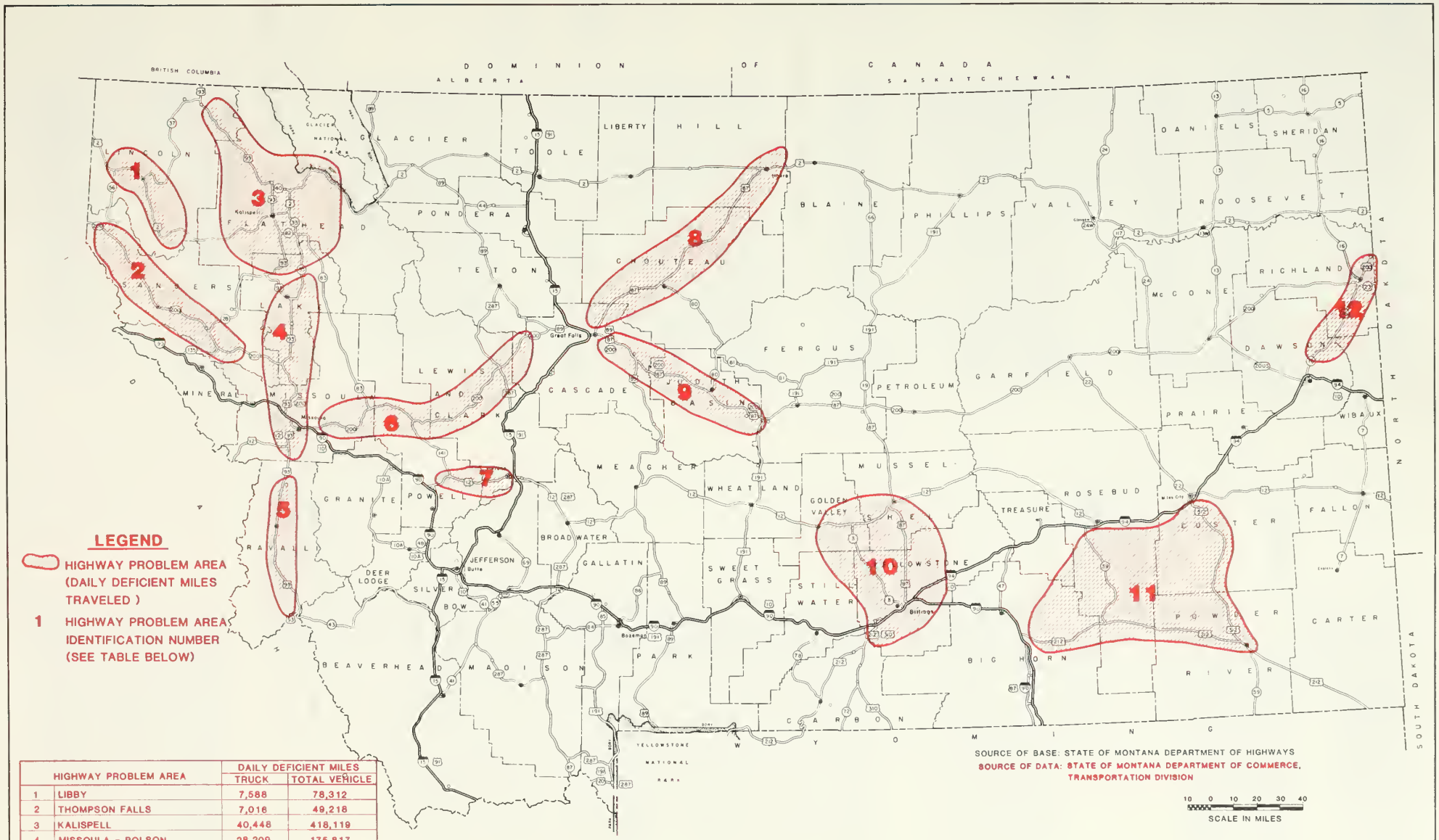
B. Enforcement of Regulations

B-1 The State should be authorized to participate with other states in the operations, including sharing of personnel and facilities of joint scales and Ports of Entry.

Result: Montana could reduce costs or increase hours of operation.

(Vote: Unanimously Passed)

B-2 The GVW Division should be allowed to contract with the owners of private scales for the long term or occasional use of those scales.


LEGEND
HIGHWAY PROBLEM AREA (DAILY DEFICIENT MILES TRAVELED)
1 HIGHWAY PROBLEM AREA IDENTIFICATION NUMBER (SEE TABLE BELOW)
SOURCE OF BASE: STATE OF MONTANA DEPARTMENT OF HIGHWAYS
SOURCE OF DATA: STATE OF MONTANA DEPARTMENT OF COMMERCE, TRANSPORTATION DIVISION
10 0 10 20 30 40
SCALE IN MILES

	HIGHWAY PROBLEM AREA	DAILY DEFICIENT MILES	
		TRUCK	TOTAL VEHICLE
1	LIBBY	7,588	78,312
2	THOMPSON FALLS	7,016	49,218
3	KALISPELL	40,448	418,119
4	MISSOULA - POLSON	28,209	175,817
5	HAMILTON	5,537	79,885
6	200-GREAT FALLS-MISSOULA	23,737	95,386
7	HELENA - GARRISON	5,988	40,918
8	GREAT FALLS - HAVRE	5,092	30,324
9	200-STANFORD-GREAT FALLS	7,200	53,640
10	BILLINGS NORTH	10,186	89,794
11	BROADUS	8,914	70,886
12	SIDNEY	9,849	51,948

MONTANA HIGHWAY PROBLEM AREAS

Results: A. reduce the cost of scales to the GVW Division.
B. increase scale availability.

(Vote: Unanimously Passed).

B-3 The fine schedule for overweight vehicles should be increased by 300 percent.

Result: Reduce illegal overloads by making it more difficult to profit by overloading.

(Vote: Unanimously Passed).

B-4 Allow the Gross Vehicle Weight Division to deny or withdraw the issuance of any gross vehicle weight authorization to any user determined to be in continuous and flagrant violation of the limits.

Result: Truck users found to be in continuous violation may be denied the use of the highways.

(Vote: Unanimously Passed).

B-5 The fine for overweight axles and gross weight violations should be without regard to the licensed capacity of the vehicle, and separate fees should be determined for failure to obtain the required gross vehicle weight.

Result: Assessment of the fine based on damage to the roads and bridges.

(Vote: Unanimously Passed).

B-6 A private/government task force should be established to create a central system of collecting violations by motor carriers and drivers and so improve the quality and availability of driver-related information.

(Vote: 16-yes; 1-no).

C. Administration

C-1 There should be a central source or agency for all permitting and reporting for the motor carrier industry.

(Vote: 16-yes; 1-no).

C-2 The Motor Fuel Tax Division of the Montana Department of Revenue requirement that each fuel purchase be reported by vendor on the fuel user tax return should be eliminated. Only miles traveled and fuel used should be recorded.

Results: A. Eliminate duplicate reporting since dealers report the same information.
B. Reduce the user burden by 75 percent in filing the user report.

(Vote: 16-yes; 1-no).

D. Economic Development

D-1 The State should be allowed to create a new road classification when such classification would preserve or increase the number of jobs in Montana or otherwise further its economic development.

Results: Projects in Montana are subject to delay or are economically unfeasible because of: 1) the time required to build a rail spur; 2) the long term required to amortize a rail spur; 3) inability of any individual user of a road to upgrade a road facility for extremely heavy use. This proposal would allow the State to designate certain routes for use of extremely large off-highway equipment not compatible with general traffic and requiring restricted access. The State could sponsor the road and collect its cost from the users by any variety of devices ranging from direct charges to royalties. This recommendation would assist in the development of resources too small to justify a rail spur and allow users to jointly improve roads used only for industrial purposes.

(Vote: 16-yes; 1-no).

The following recommendation was proposed but rejected by the Council by the vote recorded:

** The Gross Vehicle Weight Division of the Montana Department of Highways should be given access to the loading records of any shipper loading vehicles for use on a public highway and that shippers be required to retain those records for 30 days and make them available during normal business hours.

Results The GVW Division could easily identify continuous offenders and problem areas with no increased staff or budget.

(Vote: 7-yes; 9-no; 1-abstained).

The Council concurred to table and delete the following recommendation:

** All trailers for use and combinations of GVW in excess of 24,000 lbs. should be licensed only once for the time they are owned by a user. A fee in lieu of property taxes should be applied to the tractor. GVW fees should also be applied to the tractor.

Result: A. 150,000 fewer trailers would require licensing each year.
B. 150,000 fewer GVW applications would be processed each year.
C. There would be significant savings to the State in the issuance of these permits.
D. There would be no reduced income to the State.

SIZE AND WEIGHT REGULATIONS

Bridge "Formula B" defines the allowable axle weight of vehicles according to the number of axles and the distance between them. The formula is accepted by the U.S. Department of Transportation, highway engineering associations throughout the country, and 28 states. The formula governs allowable axle weights in Montana with two conditions. Under current State law, a vehicle with a permit may not exceed 105,500 lbs. gross weight or 85 feet in length. It has been proven that axle weight, not gross weight, determines a vehicle's detrimental impact on roads and bridges. But any truck, even a small one, whose axle weights exceed Formula B limits, can damage highways. An eight-axle truck weighing 105,500 pounds has an average axle weight of 13,000 pounds; while a five-axle truck has an average axle weight of 18,000 pounds. The same engineering studies which prove the value of longer, heavier trucks point out the severe effect of even small increases in axle weight. A 24,000 pound axle, for example, has three times the impact on pavement of an 18,000 pound axle.

Research by the Council shows that even without the gross weight cap, Formula B regulations will continue to protect our highways. Allowing longer, heavier trucks with more axles will result in fewer truck trips, thus further reducing highway wear, as well as reducing fuel consumption and transportation expenses.

If there is to be a penalty for continous violation of motor carrier regulations, there must be a mechanism for identifying continuous violators. It is difficult to determine whether a carrier or driver has broken the law many times if the violations differ in nature and jurisdiction. A central point is needed to gather and disseminate information about motor carriers and drivers.

ENFORCEMENT

An informal survey of 805 turck loads leaving Great Falls-area grain elevators indicated to the Council that several overweight trucks may be operating in Montana. *(See Table 8).* The survey points out there is indeed a problem, the worst case being five-axle grain trucks from Montana farms. Sixty-nine percent of these trucks were overloaded by an average of 2,700 pounds per axle. If the survey reflects the habits of all trucks operating between points in Montana, then the overweight and thus illegal loads problem is indeed significant.

TABLE 8: Random Survey of 805 Truck Loads at Various Great Falls Elevators.

	Montana Trucks			Out of State Trucks	
No. of axles	3	5	7	5	7
No. of loads	6	88	21	436	254
No. of illegal loads	4	54	5	59	26
Percentage of illegal loads	69	61	24	14	10
Average lbs. overweight	8175	8765	5036	1778	2334
Average lbs. overweight per axle	2725	1753	719	356	333

Source: Transystems, Inc., Great Falls

LEGEND
CRITICAL SUFFICIENCY RATING
RECONSTRUCTION REQUIRED WITHIN 10 YRS.
WEIGH STATIONS (PAIR) OPERATING TWO DIRECTIONS
WEIGH STATION
DENOTES STATION OPERATED ON INTERMITTENT BASIS
SOURCE OF BASE: STATE OF MONTANA DEPARTMENT OF HIGHWAYS
SOURCE OF DATA: STATE OF MONTANA DEPARTMENT OF HIGHWAYS, FEBRUARY, 1982
10 0 10 20 30 40
SCALE IN MILES

HIGHWAY SUFFICIENCY WITH WEIGH STATIONS

The GVW Division of the Montana Department of Highways is responsible for enforcing weight regulations and a host of other regulations. It weighs vehicles, administers permits and licenses, and enforces size and weight regulations. It does all this with $2.5 million, 96 people, and 36 scales. *(Refer to Map — Highway Sufficiency with Weigh Stations).* The Division was recently granted 14 new staff positions by the 1981 Legislature. Some of the problems associated with GVW enforcement is the high price tag for fixed scales (about $500,000 each), the number of alternate highway routes through Montana, portable scales which are not effective because of the truckers use of the CB radio to avoid them, and the vast territory to cover.

The Council's recommendations offer some inexpensive solutions. Montana can increase its access to truck scales by creating legislation which authorizes its participation in the use of joint multi-state facilities. Such a system is proving effective on the boundary between Wyoming and Utah. Most overloaded trucks in Montana, however, never cross state lines. To assist with weight enforcement within the State, the GVW Division can again inexpensively increase its access to scales by contracting for the use of private scales. Under such an arrangement, an officer could require a susupicious truck to stop at a nearby private scale rather than wait for the truck to pull through, or rather avoid, a State scale.

Apprehending violators is often pointless unless they are sufficiently punished for their crime. The fine schedule currently ranges from $15 to $1,000 and the Justices of the Peace generally suspend most of the fine. They are also generous about letting offenders post bonds. But even without a lenient judge, a truck operator can generally pay for his fine in only three 75-mile trips. After that, he profits by overloading his vehicle while damage is being done to our highways. The Council does not wish to infringe on the legal powers of the Justice of the Peace. It does, however, want to see the fine schedule tripled and so decrease the chance of profiting from overloaded vehicles. In the same vein, continous violators of vehicle weight laws should be denied use of Montana's highways. The law should be changed so that the GVW Division can deny or withdraw a motor carrier's authorization to operate trucks.

Recommendation B-5 concerns a problem wherein fines are set according to the amount a vehicle's actual weight exceeds the weight for which the vehicle is licensed. Thus, the fines are only vaguely related to the amount of damage an overweight truck causes to roads and bridges. The situation can be remedied by making the fines correspond to the weight limits set in Formula B, and imposing a separate fine for failing to license a vehicle to its sufficient weight limit. This also would ease the burden on the operator who carries a legal weight but makes the error of not buying a permit.

ADMINISTRATION

The recommended changes in administrative procedures would ease the paperwork burden on both the motor carriers and the GVW Division, thereby allowing the trucking industry to devote more time to transporting commodities, and the GVW Division to spend more time enforcing the law.

The extremely complicated collection of permits, licenses and bonds for motor carriers should be streamlined for the sake of both the carriers and the State agencies. There are 20 separate permits, licenses, and bonds administered by the four State departments — Justice, Highways, Public Service Regulation and Revenue. With little coordination between these State agencies, the motor carriers can easily become lost in the complexity of the process. Administrative efficiency would be greatly enhanced if this paperwork could be reduced and gathered into one central office.

ECONOMIC DEVELOPMENT

The Council's final recommendation regarding motor carriers would allow industrial groups to develop roads necessary for industrial development, particularly with respect to natural resource extraction. Natural resources within Montana which either, because of their small amount of proven reserve or their short economic future such as five to ten years, will likely remain undeveloped if their economic viability depends on low cost transportation. Highway trucks with their limitation to 105,500 lbs. do not offer the most efficient form of transportation with respect to hauling significant tonnages. On the other hand, a rail line, while able to haul large tonnages at low cost, often requires considerable construction lead time as well as an extremely long amortization period. An off-highway truck in the 200,000 to 250,000 lbs. range could approximate the same transportation economics as a rail extension, but would be capable of providing those economics on relatively low reserve tonnages for short periods of amortization.

Such roads would be outside the present highway system, in cases, running parallel to existing highways, be constructed of dirt and gravel and accommodate extremely heavy vehicles.

The State's role in these projects would be to: 1) provide the road at user expense; 2) allow resource-related vehicles to use the road, regardless of size or configuration (in return, the user industries would be responsible for maintenance of the road); and 3) due to the safety aspect, restrict public traffic from access to such a road, and allowing only those industrial users with projects in the area. British Columbia currently has a similar system of government-sponsored natural resource roads to meet the transportation needs of their logging industry.

VII. RAILROADS

Most of Montana is served by a single railroad, a situation which has evolved over the past several years. As a result, Montana shippers have had to adjust to changing transportation opportunity. For the most part, these changes have been beneficial. For example, the supply of railcars has increased and shipment transit times have been reduced. Most recently, changes have occured with rate structures which include marketing incentives for new shipping practices.

Public opinion concerning Montana's railroad system and its service is mixed. State government cannot be indifferent to the service needs of Montana's citizens and their commerce, yet the private enterprise spirit of the rail industry must also be respected by government.

With this in mind, the Governor's Transportation Advisory Council sets forth the following policy statements and recommendations regarding railroad transportation in Montana.

RECOMMENDATIONS

1. The Division of Transportation, under the Montana Department of Commerce, should be adequately funded and encouraged to provide information to shippers for utilization in determining appropriate rate levels under the Staggers Act. The Division should continue dialogue with all bulk transportation companies to ensure that Montana shippers are provided the best and most efficient means of shipping their products. *(Vote: Unanimously passed).*

2. Branchline abandonments are of concern to the resulting isolated shippers and the State of Montana. The Council urges that the Division continue its rail planning functions in conjunction with line abandonments and rate determination. Communications and consultations among carriers, affected shippers, and the State should be encouraged prior to actual abandonment. *(Vote: Unanimously passed).*

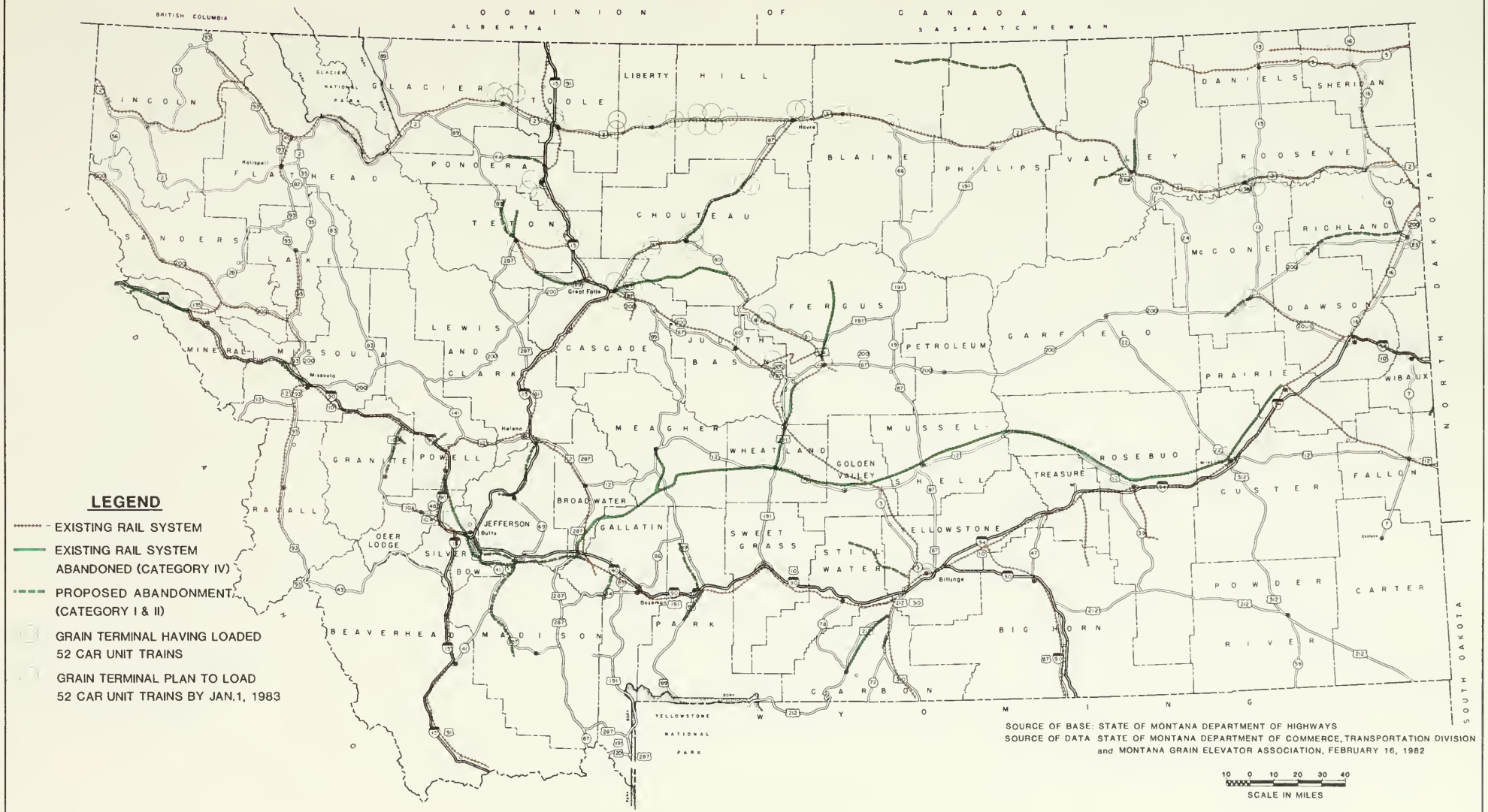
RAILROAD SHIPPING RATES

The pricing of railroad services was considerably deregulated by the Staggers Rail Act of 1980 *(Title 49, U.S. Code of Regulations).* One of the purposes of the Act was to allow the railroads pricing freedoms in order that they could be more competitive and thereby increase their rate of return on invested capital.

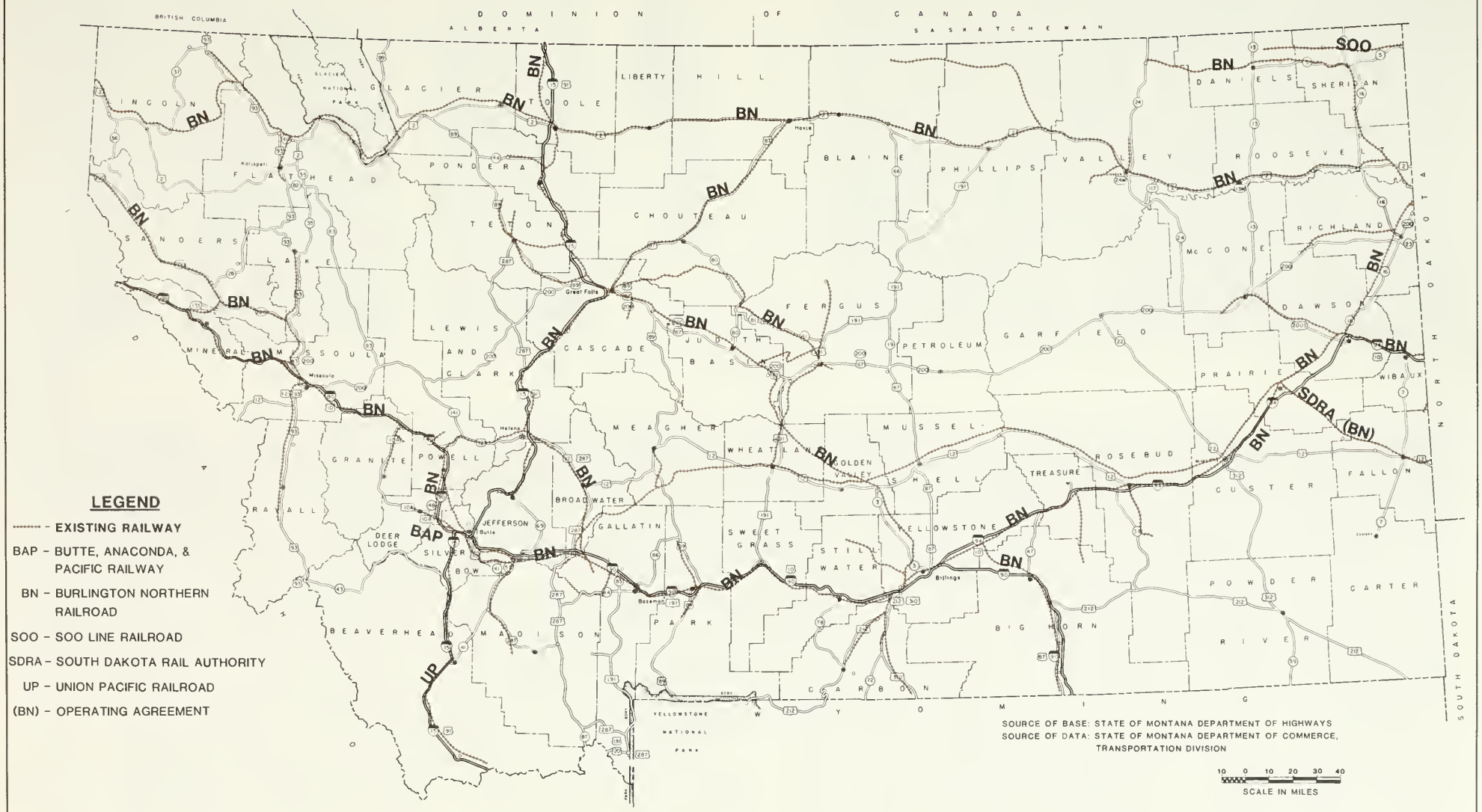
Prior to the Staggers Act, rates for interstate rail transportation were set by the Interstate Commerce Commission (ICC), with some intrastate transportation rates determined by state agencies. Railroads were required to submit requests for rate changes to those agencies, and bore the burden of proving the need for such changes.

The Staggers Act changed the situation. Now railroads may establish rates for transportation or other services independent of regulatory agency review, with limitation. For example, if the ICC determines that a rail carrier has "market dominance" over any portion of the transportation market, rates for that portion of the railroad's business must be "reasonable", and may be set by the ICC. Also, in any challenge of rail shipping rates, the initial burden of proof now falls on the shipper.

Shortly after the Staggers Rail Act went into effect in October, 1980, the Transportation Division challenged most Montana grain rates, alleging that they were unreasonable. As the Division pursued the allegation, some questions arose over procedure within the legislation em-



MONTANA RAIL SYSTEMS & ABANDONMENTS WITH GRAIN TERMINALS



MONTANA RAIL SYSTEM – 1982

bodied in the Act. For example, to successfully challenge a rate, one must first prove that the railroad exercises market dominance over the transportation service in question. However, market dominance standards are still being developed by the ICC and therefore it is not possible at this time for a complainant to determine what is required to prove a market dominance case. Further, to prove a rate unreasonable, the challenger must know how much it costs the railroad to provide the transportation service. Having acquired that data, the challenger must then produce expert testimony to interpret the data and prove the rate unreasonable. If, for any reason, the challenger cannot bear this burden of proof, the ICC must rule that the rate in question is reasonable, and the challenge fails.

The Transportation Division has also filed suit against the ICC for considering rate challenges without establishing specific accounting procedures for rail transportation costs. Such accounting procedures are required by the Staggers Rail Act, but the ICC has failed to adopt any. Without them, there is no fixed standard by which to evaluate shippers' and/or railroads' cost data. Thus it is difficult to prove rate reasonability until the specific accounting procedures for railroads have been adopted.

RAILROAD BRANCHLINE ABANDONMENT

Of its 3800 miles of track in Montana, among the most per capita of any state, Burlington Northern Railroad expects to abandon some 319 miles — 10 percent of the track, and 3 percent of the freight volume. Cooperation between the railroads, shippers, and the state may help protect those shippers whom the abandonments would otherwise isolate from rail service.

In recent years, physical deterioration, changing technology and decreased traffic volumes have made some railroad branchlines in Montana too expensive and inefficient to operate. It is inappropriate to blame anyone for the situation; it is simply the result of economic conditions and technological progress. Many of the branchlines to be abandoned require complete rebuilding. Most were built between 1885 and 1910; their light rail and bridges cannot support modern heavy loads.

Since its introduction into Montana in 1980, the concept of 52-car unit train has developed quickly. In the first quarter of 1982, 75 percent of Montana's wheat moved by rail, and of the wheat going to the Northwest coast, 90 percent traveled in unit trains. Thirty-one of the state's grain elevators can now load the 52-car unit trains. By 1983 it is anticipated that over fifty elevators will have some unit train loading ability so as to take advantage of the lower 52-car unit train rates.

Under the unit train system, hopper cars can make five trips in the same time that single cars make two. Quicker turnarounds effectively increase car supply. This is important to the producers because better car supply means increased ability to market products — especially important in times of high interest rates. In addition, the lower unit train shipping rates have become the standard for negotiating grain prices and transportation, thus providing opportunity for increased prices for grain throughout the industry.

While unit trains are helping some farmers and ranchers, the new system may be speeding up the abandonment of branchlines, thus completely isolating some producers from rail service. For some, this means an increased trucking cost from farm to point of sale. Once grain is on a truck, it is sometimes less costly to take it all the way to a subterminal than to stop at a previous point of sale. But some areas, especially southeastern Montana, can support neither branchlines nor subterminals, and may have to rely completely on trucks.

Montana also markets many different protein wheats which traditionally are moved in smaller quantities to consolidation points for blending with lower protein wheats. This requires flexible delivery of small quantities; however, the subterminal system tends to deal in large quantities of grain. The high protein wheat producer may suffer some economic dislocation because of the unit train/subterminal concept. The availability of economic transportation for delivery of high protein wheat is a matter for monitoring by the Transportation Division in cooperation with the Montana Department of Agriculture.

Finally, a problem of overbuilding within the elevator industry to accomodate 52-car units may ultimately force closure of some newly modified facilities. If over fifty elevators gear up to serve unit trains, as the Montana Grain Elevator Association predicts, competition could be fierce and some of the subterminals could conceivably go out of business. Again, farmers could face isolation from rail service.

To deal with the problem of branchline abandonments, the Transportation Council urges that the Transportation Division continue its rail planning efforts and that rail carriers, shippers, and the State discuss their problems together and negotiate, if possible, prior to actual abandonment.

VIII. URBAN PUBLIC TRANSPORTATION

Local public transportation is as much a community service as police and fire protection, libraries, and road maintenance, and a number of people rely on it. Public transit also offers an alternative to the private automobile and aids in petroleum conservation efforts. Experience shows that local public transit cannot meet expenses through fares alone: most privately owned systems in the U.S. went out of business in the 1950's and 1960's. There are very few public systems in the U.S. which take in more than half of their operating expenses through fares.

RECOMMENDATIONS

1. The Transportation Advisory Council is recommending that one-half of one percent of oil severance tax revenues be made available for transportation uses in Montana for other than highway purposes. This additional tax is expected to generate approximately $5 million dollars. The Council further recommends that 40 percent of the funds generated from this tax be provided to communities for transit purposes to partially offset losses in federal revenues, after the community has expended the equivalent of 12 mills in support of the community system. *(Vote: 13-yes; 1-no).*

2. Local public transit systems should not come under the regulatory authority of the Montana Public Service Commission. *(Vote: 13-yes; 1-abstained).*

FUNDING OF URBAN PUBLIC TRANSPORTATION

There exists a variety of funding sources for local public transit in Montana. In Missoula and Great Falls, the transit districts can levy up to 12 mills in property taxes. Other systems are supported through general local revenues. Through the Highway Earmarked Revenue Account, the State contributes $75,000 per year to public transportation in Billings, Butte, Great Falls, Helena, and Missoula. In contrast, Wisconsin will provide about $28.2 million in operating assistance to public transportation during FY 1982.

There are indications that federal aid for local transit may disappear. There are two federal programs: Section 5 helps support the urban areas of Billings, Great Falls, and Missoula; Section 18 provides funds for small cities, such as Butte and Helena, and rural areas. These programs will provide up to one-half of a system's operating costs and contributed about $1.4 million to Montana systems in Fiscal Year 1981. *(See Table 9).* The current Administration proposes to end the Section 18 program in September, 1982, and Section 5 in September, 1984. If carried out, which appears likely, these withdrawals of support will critically affect local public transit in Montana.

TABLE 9: Federal Aid for Local Public Transit in Montana.

Section 5 Recipients

Billings	$431,396
Great Falls	420,493
Missoula*	146,061
Total	**$997,950**

Section 18 Recipients

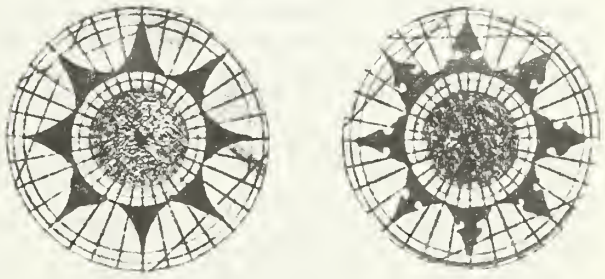
Butte	$108,012
Missoula*	93,958
Helena	84,745
Fort Peck	55,398
Valley County	24,100
Yellowstone County	15,750
Blackfeet Reservation	15,228
McCone County	6,200
Garfield County	3,872
Daniels County	3,496
Total	**$410.759**

**Missoula changed status in 1981, and so was eligible for funds under both programs.*

Should federal aid be cut back or end, the Transportation Council feels that State aid should be available to make up the shortfall. From the upcoming increase in the State's oil severance tax, about $2 million per year should be available for operating expenses of local transit systems, according to a distribution formula set down by the Legislature. But to insure that local communities provide their share of support for their own systems, no State money should be available to a community that is not already dedicating a twelve mill levy or its equivalent for these purposes.

PUBLIC SERVICE COMMISSION'S JURISDICTION

While the public transportation system in Missoula and Great Falls, which operate as urban transportation districts, are exempt from Public Service Commission control, the other systems are subjected to PSC jurisdiction. Such PSC jurisdiction limits the public transportation system's ability to adjust fares and services, and requires reporting of information that is not truly relevant to transit operations. PSC control over public transportation is not the usual situation nationwide. It would be desirable to eliminate PSC control over Montana's transit system.



IX. CONCLUSION: CONSIDERATIONS

In the preceding chapters, the Transportation Council presented recommendations designed to improve particular modes of transportation. In closing, the Council proposes the following recommendations which apply to transportation in general. The Council also offers some suggestions for further study of Montana's transportation systems.

RECOMMENDATIONS

1. The Council recommends that the State provide sufficient resources (economic and political) to protect Montana's transportation dependent industries. *(Vote: 13-yes; 3-no).*

2. The Council recommends the sale of state waters that are prioritized below domestic consumption and are available after requirements of down stream minimum flow are met. The Council recognizes that the State's water, like its timber and grains, is a valuable renewable resource for which markets should be developed. *(Vote: 13-yes; 3-no).*

3. The Council recommends that the State initiate and/or participate in the study of several transportation topics which are beyond the scope of this Council. The topics involve engineering studies and cost/benefit analysis of truck configurations; highway design; and the best ways to help the various transportation industries work together for the good of the State. *(Vote: Unanimously passed).*

4. Existing financial districts should be reduced to five that will coincide with the boundaries of the Department of Highways administrative districts. The Highway Commissioners district will be made to coincide with the new financial district boundaries. *(Vote: Unanimously passed).*

5. Determining priorities for construction and reconstruction of secondary roads be changed from a single county to include all counties within a financial district. Each district will be responsible for developing a six-year plan, that will include a two-year firm plan. Upon adoption of the plan by the district, it shall be submitted to the State and become part of the State highway plan. *(Vote: Unanimously passed).*

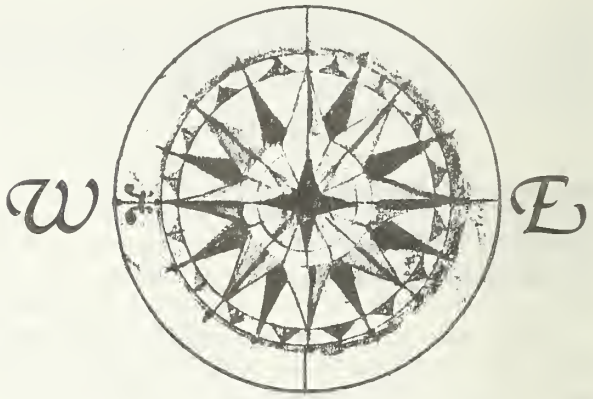
6. Secondary highway plans will be developed by a District Planning Council. The Highway Commissioner from each district will chair the District Planning Council, which, in addition to the Highway Commissioner, will consist of a County Commissioner from each county within the district. *(Vote: Unanimously passed).*

7. The financial district money allocation formula shall be re-examined and revised to insure that equity is maintained in allocating funds. *(Vote: Unanimously passed).*

The following recommendations were proposed but rejected by the Council by the vote recorded:

The Council recommends that the State insure that U.S. 200 and 93 be reconstructed to provide adequate corridors for transportation of the State's major renewable resources. The Council further advises that the alteration of the highway transportation districts law and utilization of the reconstruction trust are vital elements to accomplishing this goal. *(Vote: 5-yes; 11-no).*

** The Committee discussed the possibility of an on-going Council to address future transportation issues in Montana. The purpose of the Council would be to provide coordination and direction to all transportation efforts including Highways, Aeronautics, Departments of Revenue, Commerce and the Public Service Commission. The Council would consist of members of the private sector, academic community and state government. The Council would be strictly in an advisory capacity. With the exception of State government staff, its members would serve strictly on a volunteer basis, without State support. They might pay their expenses out of their own pockets, or be reimbursed by the organizations they represent. Under current law, the Governor must provide for the expenses of anyone he appoints to serve him; a change in that law would be required. The Council would always be chaired by one of its representatives from private industry, and membership would be changed every two years. No member, except government staff, would serve a second term. The Transportation Division, DOC, would provide staff for clerical records. *(Vote: 5-yes; 11-no).*



CONTINUING STATE TRANSPORTATION NEEDS

The Transportation Council recommends the following topics for further State study.

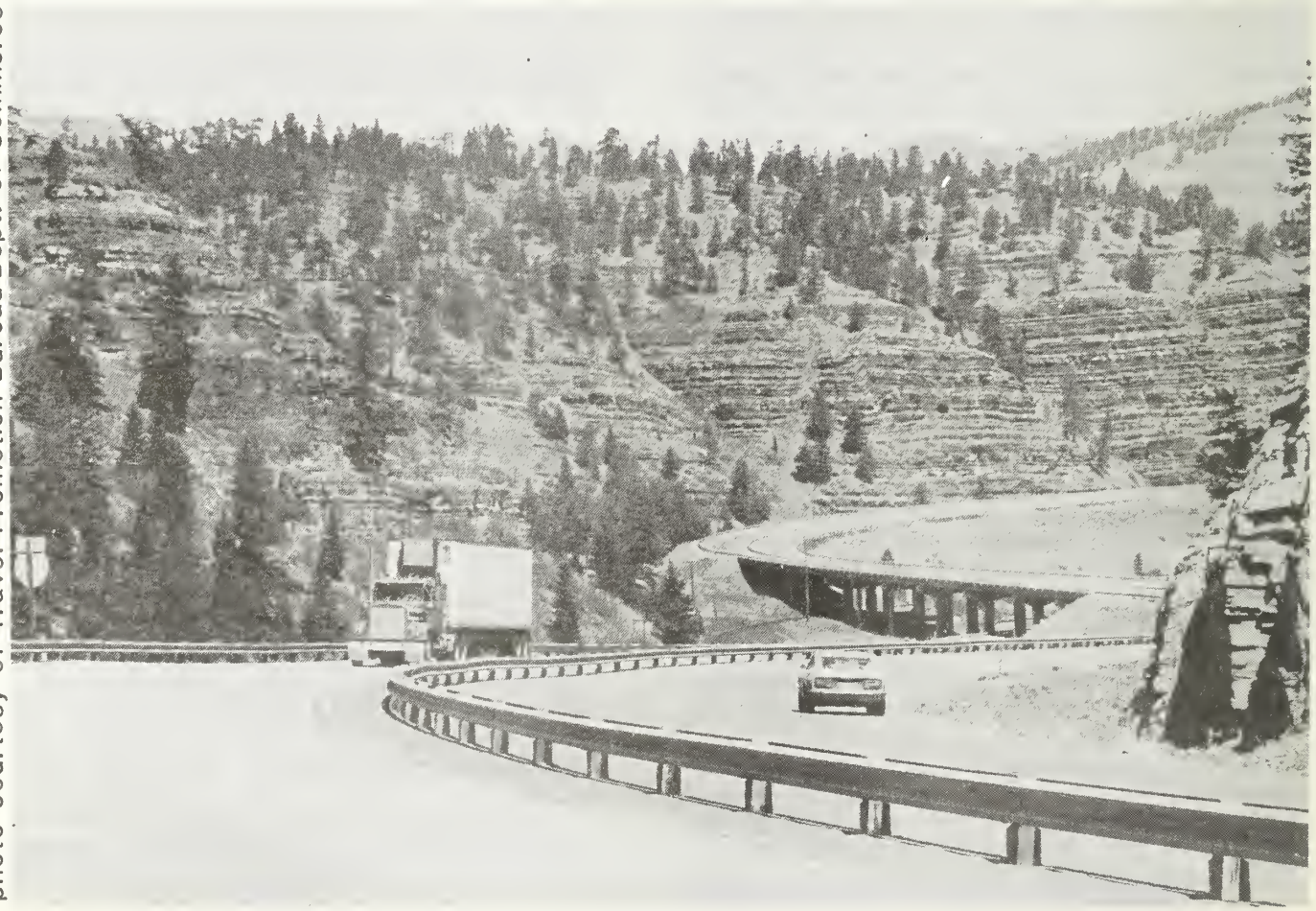


photo courtesy of Travel Promotion Bureau Dept. of Commerce

Some of this research can and should be accomplished in cooperation with surrounding states, especially Idaho, to both lessen the burden on Montana and encourage efficiency in interstate transportation:

1. What is the most cost-efficient motor carrier vehicle? As is now taking place in Canada, study and experiment should be devoted to new and non-standard vehicle configurations that might provide more efficient transportation than do the standard trucks now in use. This research should include an axle weight study like that recently undertaken by the U.S. Department of Transportation.

2. What are the most cost-efficient designs for Montana highways? Any study of the efficiency of larger, heavier vehicles must consider the efficiency of building the roads necessary to support them. If redesign is unfeasible, what is necessary to get the most use out of our present road system? Perhaps it would be advantageous to allow larger vehicles on the present system so that it is worn out by use, rather than weather. Perhaps it would be advantageous to convert the state's unused railroad beds to use by extremely heavy trucks. Currently, several highway design specifications apply to a wide variety of soil conditions and aggregates; additional, more detailed specifications should be developed to account for that variety.

3. What aspects of Montana's transportation systems help keep industry here, and what improvements would lure new industry? The state should consult with particular industries and shippers to find out what transportation improvements would further the Montana economy, and to what degree. How much does the grain industry, for example, spend on transportation? How much can the timber industry spend on improvements before they become unprofitable? How high can we raise fuel taxes before interstate motor carrier traffic starts to go around Montana? Consultation with shippers and industry can show the state how to get the healthiest economy possible for the transportation funds it spends.

The ntermodal Committee also identified the following concerns which should receive further study consideration:

A. What is the maximum use to which we can put our existing roads?

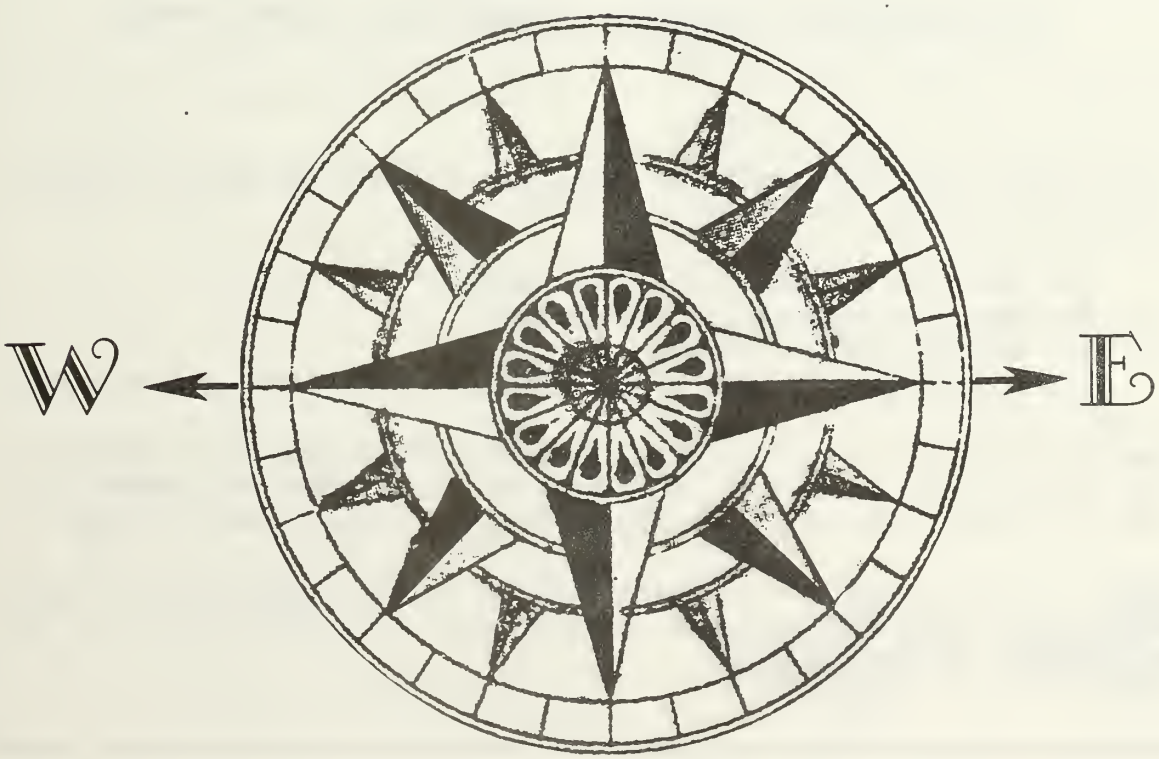
B. What is the cost benefit ratio in the construction of roads?

C. How can Montana best conduct research into the competitive modes of transportation, and the roles they can play in providing the most efficient transportation?

D. How can Montana best utilize the expertise of Montana State University in researching transportation issues?

E. To what degree can industry in Montana absorb more transportation costs, and what is the effect of that cost?

F. What is the impact of transportation on Montana's economy?



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While the Council is grateful to many who contributed, formal recognition is given to the following:

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The Aeronautics Division of the Montana Department of Commerce

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The staff of the Transportation Division received assistance in compiling this report from Phil Norcross. Editing, graphic design and layout by Marilyn McKibben.

MINORITY REPORT

This Minority Report is filed relative to the following recommendations:

1. To remove the 105,500# gross combination weight maximum from the truck restricted route permits and allow the maximum to be determined from the existing axle limits and Formula B.

2. Increase the weight length allowed under the restricted route permits from 85 feet to 95 feet in combination with recommendation No. 1.

These recommendations would have the following results as set forth in the council minutes dated May 27, 1982:

The first recommendation would "decrease truck traffic by 21%" and the second recommendation would "decrease truck traffic by 25%."

Similarly, the results project reduced trucking costs of 4.5% and 9.5% (dense freight) and 17% (low density freight) respectively, as well as a 5% reduction of fuel consumption and an 8% fuel consumption reduction respectively. Both result in supposed reduced highway and bridge damage.

These expected or anticipated results are so demonstrably and factually inaccurate that we would be remiss in allowing them to be published without comment.

The availability of truck operation at the 105,500 # maximum weight is already present, yet GVW estimates 15% of the trucks apply for this permit. Logically speaking, it is difficult to imagine that a truck would vault to a weight over 105,500 pounds just because the restriction was removed unless already operating at or near the maximum.

Realistically it would appear that only the trucks which now operate at the maximum (15%) could be expected to increase weight and then it would only be a fraction of them. From that change it is unbelievable to expect truck traffic to decrease by 21%. A more realistic estimate would be 21% of the 15% and, accordingly, a change might be expected in the area of 3%.

This same analysis is applicable to the over-length situation addressed in recommendation No. 2. In Montana, the exact number of over-length permits is difficult to determine because the over-width and over-length permits are similarly sold and difficult to separate, according to GVW. Their reasonable estimate is that approximately 3% of the trucks are running under the over-length permit system presently in effect. Any further increase in vehicle length might result in decreased truck traffic of 29% of the 3%, or less than 1%.

There is one additional matter which should be considered relative to these recommendations, and any claimed reduction in truck traffic because of these recommendations. A glance at any highway map for the western United States shows clearly that Montana is geographically located in a very key position relative to motor vehicle traffic from Chicago-Minneapolis to the west coast metropolitan areas of Portland-Seattle. The highway routes through Montana are demonstrably shorter. Accordingly, when a northern corridor can be established through the states of Washington, Idaho, Montana, North Dakota, and Minnesota for larger and heavier trucks, we should and must realistically expect large increases in volume of freight and a large increase in raw numbers of trucks.

As a practical matter, truck traffic is forced to utilize either Montana or Wyoming east-west routes in order to accomodate virtually all freight hauled between these large metropolitan areas. The Colorado mountains make truck traffic impractical. Accordingly, no realistic estimate of changes in truck traffic within Montana can be made in a vacuum. Such estimates cannot be made based only on the existing truck traffic within Montana. Contrariwise, the recommendations will result in a migration of freight and trucks to the Montana routes. Logically speaking, these recommendations should be viewed as inviting greatly increased truck traffic (both in weight and number of trucks) to Montana. The result will be increased highway and bridge damage.

Sooner or later the taxpaying and safety conscious public of Montana is no longer going to stand still for the fallacious argument that heavier is better, and longer is safer. The claims of reduced traffic by increases such as these have historically been made, yet, as increases in weight and length have become law, no demonstrable reduction has ever been achieved.

Implementation of these two recommendations will worsen Montana's deteriorated and inadequate highway system.

Montana Automobile Association
Larry A. Tobiason

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